

CERTIFICATION OF ENROLLMENT

HOUSE BILL 2682

Chapter 41, Laws of 2020

66th Legislature
2020 Regular Session

CHILDREN WITH DEVELOPMENTAL DISABILITIES--OUT-OF-HOME SERVICES

EFFECTIVE DATE: June 11, 2020

Passed by the House February 19, 2020
Yeas 98 Nays 0

LAURIE JINKINS

Speaker of the House of Representatives

Passed by the Senate March 3, 2020
Yeas 48 Nays 0

CYRUS HABIB

President of the Senate

Approved March 18, 2020 10:44 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 2682** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

March 18, 2020

**Secretary of State
State of Washington**

HOUSE BILL 2682

Passed Legislature - 2020 Regular Session

State of Washington

66th Legislature

2020 Regular Session

By Representatives Senn, Kilduff, Leavitt, and Pollet; by request of Department of Social and Health Services

Read first time 01/17/20. Referred to Committee on Human Services & Early Learning.

1 AN ACT Relating to out-of-home services; amending RCW 74.13.350;
2 reenacting and amending RCW 13.04.030; adding a new chapter to Title
3 71A RCW; recodifying RCW 74.13.350; and repealing RCW 13.34.270.

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

5 **Sec. 1.** RCW 74.13.350 and 2019 c 470 s 17 are each amended to
6 read as follows:

7 ~~((1))~~ It is the intent of the legislature that parents are
8 responsible for the care and support of children with developmental
9 disabilities. The legislature recognizes that, because of the intense
10 support required to care for a child with developmental disabilities,
11 the help of ~~((an))~~ out-of-home ~~((placement))~~ services may be needed.
12 It is the intent of the legislature that, when the sole reason for
13 ~~((the))~~ out-of-home ~~((placement))~~ services is the child's
14 developmental disability, such services be offered by the department
15 to these children ~~((and their families))~~ through a voluntary
16 ~~((placement agreement. In these cases, the parents shall retain legal
17 custody of the child.~~

18 ~~(2) Under the terms of a voluntary placement agreement, the
19 parent or legal guardian shall retain legal custody and the
20 department shall be responsible for the child's placement and care.
21 The agreement shall at a minimum specify the legal status of the~~

1 ~~child and the rights and obligations of the parent or legal guardian,~~
2 ~~the child, and the department while the child is in placement. The~~
3 ~~agreement must be signed by the child's parent or legal guardian and~~
4 ~~the department to be in effect, except that an agreement regarding an~~
5 ~~Indian child shall not be valid unless executed in accordance with~~
6 ~~RCW 13.38.150. Any party to a voluntary placement agreement may~~
7 ~~terminate the agreement at any time. Upon termination of the~~
8 ~~agreement, the child shall be returned to the care of the child's~~
9 ~~parent or legal guardian unless the child has been taken into custody~~
10 ~~pursuant to RCW 13.34.050 or 26.44.050, placed in shelter care~~
11 ~~pursuant to RCW 13.34.060, or placed in foster care pursuant to RCW~~
12 ~~13.34.130.~~

13 ~~(3) Whenever the department places a child in out-of-home care~~
14 ~~under a voluntary placement pursuant to this section, the department~~
15 ~~shall have the responsibility for the child's placement and care. The~~
16 ~~department shall develop a permanency plan of care for the child no~~
17 ~~later than sixty days from the date that the department assumes~~
18 ~~responsibility for the child's placement and care. Within the first~~
19 ~~one hundred eighty days of the placement, the department shall obtain~~
20 ~~a judicial determination pursuant to RCW 13.04.030(1)(j) and~~
21 ~~13.34.270 that the placement is in the best interests of the child.~~
22 ~~If the child's out-of-home placement ends before one hundred eighty~~
23 ~~days have elapsed, no judicial determination under RCW~~
24 ~~13.04.030(1)(b) is required. The permanency planning hearings shall~~
25 ~~review whether the child's best interests are served by continued~~
26 ~~out-of-home placement and determine the future legal status of the~~
27 ~~child.~~

28 ~~(4) The department shall provide for periodic administrative~~
29 ~~reviews as required by federal law. A review may be called at any~~
30 ~~time by either the department, the parent, or the legal guardian.~~

31 ~~(5) Nothing in this section shall prevent the department of~~
32 ~~children, youth, and families from filing a dependency petition if~~
33 ~~there is reason to believe that the child is a dependent child as~~
34 ~~defined in RCW 13.34.030.~~

35 ~~(6) The department shall adopt rules providing for the~~
36 ~~implementation of chapter 386, Laws of 1997 and the transfer of~~
37 ~~responsibility for out-of-home placements from the dependency process~~
38 ~~under chapter 13.34 RCW to the process under this chapter.~~

39 ~~(7) It is the intent of the legislature that the department~~
40 ~~undertake voluntary out-of-home placement in cases where the child's~~

1 developmental disability is such that the parent, guardian, or legal
2 custodian is unable to provide the necessary care for the child, and
3 the parent, guardian, or legal custodian has determined that the
4 child would benefit from placement outside of the home. If the
5 department does not accept a voluntary placement agreement signed by
6 the parent, a petition may be filed and an action pursued under
7 chapter 13.34 RCW. The department shall inform the parent, guardian,
8 or legal custodian in writing of their right to civil action under
9 chapter 13.34 RCW.

10 (8) Nothing in this section prohibits the department of children,
11 youth, and families from seeking support from parents of a child,
12 including a child with a developmental disability if the child has
13 been placed into care as a result of an action under chapter 13.34
14 RCW, when state or federal funds are expended for the care and
15 maintenance of that child or when the department receives an
16 application for services from the physical custodian of the child,
17 unless the department of children, youth, and families finds that
18 there is good cause not to pursue collection of child support against
19 the parent or parents.

20 (9) For the purposes of this section:

21 (a) Unless the context clearly requires otherwise, "department"
22 means the department of social and health services.

23 (b) "Out-of-home placement" and "out-of-home care" mean the
24 placement of a child in a foster family home or group care facility
25 licensed under chapter 74.15 RCW.

26 (c) "Voluntary placement agreement" means a written agreement
27 between the department of social and health services and a child's
28 parent or legal guardian authorizing the department to place the
29 child in a licensed facility)) person-centered service planning
30 process and in accordance with rules adopted by the department.

31 NEW SECTION. **Sec. 2.** (1) Under the person-centered service
32 plan, the parent or legal guardian retains legal custody for the
33 child's placement and care. The service plan must be signed by the
34 child's parent or legal guardian and the department to be in effect.

35 (2) The parent or legal guardian may terminate services at any
36 time. Upon termination of services, the child's parent or legal
37 guardian retains legal custody for the child's placement and care
38 unless the child has been taken into custody by the department of
39 children, youth, and families, pursuant to RCW 13.34.050 or

1 26.44.050, placed in shelter care pursuant to RCW 13.34.060, or
2 placed in foster care pursuant to RCW 13.34.130.

3 (3) The department of social and health services must adopt rules
4 for the person-centered service plan.

5 (4) For purposes of this section, "person-centered service plan"
6 means a written plan between the department and a child's parent or
7 legal guardian approving services for the child in a licensed or
8 certified setting.

9 NEW SECTION. **Sec. 3.** (1) It is the intent of the legislature
10 that the department offer voluntary out-of-home services in cases
11 where the sole reason for the child's out-of-home services is due to
12 the child's developmental disability and the parent, guardian, or
13 legal custodian has determined that the child would benefit from
14 services outside of the home. If the department does not offer out-
15 of-home services, a petition may be filed and an action pursued under
16 chapter 13.34 RCW.

17 (2) Nothing in this section prevents the department of children,
18 youth, and families from filing a dependency petition if there is
19 reason to believe that the child is a dependent child as defined in
20 RCW 13.34.030.

21 (3) The department must adopt rules for out-of-home services.

22 (4) As used in this section, "out-of-home services" means the
23 services provided to a child by a provider that is licensed to serve
24 children under chapter 74.15 RCW and is contracted by the department
25 or provided by a state-operated community program of the
26 developmental disabilities administration.

27 **Sec. 4.** RCW 13.04.030 and 2019 c 322 s 9 and 2019 c 46 s 5015
28 are each reenacted and amended to read as follows:

29 (1) Except as provided in this section, the juvenile courts in
30 this state shall have exclusive original jurisdiction over all
31 proceedings:

32 (a) Under the interstate compact on placement of children as
33 provided in chapter 26.34 RCW;

34 (b) Relating to children alleged or found to be dependent as
35 provided in chapter 26.44 RCW and in RCW 13.34.030 through 13.34.161;

36 (c) Relating to the termination of a parent and child
37 relationship as provided in RCW 13.34.180 through 13.34.210;

1 (d) To approve or disapprove out-of-home placement as provided in
2 RCW 13.32A.170;

3 (e) Relating to juveniles alleged or found to have committed
4 offenses, traffic or civil infractions, or violations as provided in
5 RCW 13.40.020 through 13.40.230, unless:

6 (i) The juvenile court transfers jurisdiction of a particular
7 juvenile to adult criminal court pursuant to RCW 13.40.110;

8 (ii) The statute of limitations applicable to adult prosecution
9 for the offense, traffic or civil infraction, or violation has
10 expired;

11 (iii) The alleged offense or infraction is a traffic, fish,
12 boating, or game offense, or traffic or civil infraction committed by
13 a juvenile sixteen years of age or older and would, if committed by
14 an adult, be tried or heard in a court of limited jurisdiction, in
15 which instance the appropriate court of limited jurisdiction shall
16 have jurisdiction over the alleged offense or infraction, and no
17 guardian ad litem is required in any such proceeding due to the
18 juvenile's age. If such an alleged offense or infraction and an
19 alleged offense or infraction subject to juvenile court jurisdiction
20 arise out of the same event or incident, the juvenile court may have
21 jurisdiction of both matters. The jurisdiction under this subsection
22 does not constitute "transfer" or a "decline" for purposes of RCW
23 13.40.110 (1) or (2) or (e)(i) of this subsection. Courts of limited
24 jurisdiction which confine juveniles for an alleged offense or
25 infraction may place juveniles in juvenile detention facilities under
26 an agreement with the officials responsible for the administration of
27 the juvenile detention facility in RCW 13.04.035 and 13.20.060;

28 (iv) The alleged offense is a traffic or civil infraction, a
29 violation of compulsory school attendance provisions under chapter
30 28A.225 RCW, or a misdemeanor, and a court of limited jurisdiction
31 has assumed concurrent jurisdiction over those offenses as provided
32 in RCW 13.04.0301; or

33 (v) The juvenile is sixteen or seventeen years old on the date
34 the alleged offense is committed and the alleged offense is:

35 (A) A serious violent offense as defined in RCW 9.94A.030;

36 (B) A violent offense as defined in RCW 9.94A.030 and the
37 juvenile has a criminal history consisting of: One or more prior
38 serious violent offenses; two or more prior violent offenses; or
39 three or more of any combination of the following offenses: Any class
40 A felony, any class B felony, vehicular assault, or manslaughter in

1 the second degree, all of which must have been committed after the
2 juvenile's thirteenth birthday and prosecuted separately; or

3 (C) Rape of a child in the first degree.

4 (I) In such a case the adult criminal court shall have exclusive
5 original jurisdiction, except as provided in (e)(v)(C)(II) and (III)
6 of this subsection.

7 (II) The juvenile court shall have exclusive jurisdiction over
8 the disposition of any remaining charges in any case in which the
9 juvenile is found not guilty in the adult criminal court of the
10 charge or charges for which he or she was transferred, or is
11 convicted in the adult criminal court of an offense that is not also
12 an offense listed in (e)(v) of this subsection. The juvenile court
13 shall maintain residual juvenile court jurisdiction up to age twenty-
14 five if the juvenile has turned eighteen years of age during the
15 adult criminal court proceedings but only for the purpose of
16 returning a case to juvenile court for disposition pursuant to RCW
17 13.40.300(3)(d).

18 (III) The prosecutor and respondent may agree to juvenile court
19 jurisdiction and waive application of exclusive adult criminal
20 jurisdiction in (e)(v)(A) through (C) of this subsection and remove
21 the proceeding back to juvenile court with the court's approval.

22 If the juvenile challenges the state's determination of the
23 juvenile's criminal history under (e)(v) of this subsection, the
24 state may establish the offender's criminal history by a
25 preponderance of the evidence. If the criminal history consists of
26 adjudications entered upon a plea of guilty, the state shall not bear
27 a burden of establishing the knowing and voluntariness of the plea;

28 (f) Under the interstate compact on juveniles as provided in
29 chapter 13.24 RCW;

30 (g) Relating to termination of a diversion agreement under RCW
31 13.40.080, including a proceeding in which the divertee has attained
32 eighteen years of age;

33 (h) Relating to court validation of a voluntary consent to an
34 out-of-home placement under chapter 13.34 RCW, by the parent or
35 Indian custodian of an Indian child, except if the parent or Indian
36 custodian and child are residents of or domiciled within the
37 boundaries of a federally recognized Indian reservation over which
38 the tribe exercises exclusive jurisdiction; and

1 (i) Relating to petitions to compel disclosure of information
2 filed by the department of social and health services pursuant to RCW
3 74.13.042(~~;~~and

4 ~~(j) Relating to judicial determinations and permanency planning~~
5 ~~hearings involving developmentally disabled children who have been~~
6 ~~placed in out-of-home care pursuant to a voluntary placement~~
7 ~~agreement between the child's parent, guardian, or legal custodian~~
8 ~~and the department of social and health services and the department~~
9 ~~of children, youth, and families)).~~

10 (2) The family court shall have concurrent original jurisdiction
11 with the juvenile court over all proceedings under this section if
12 the superior court judges of a county authorize concurrent
13 jurisdiction as provided in RCW 26.12.010.

14 (3) The juvenile court shall have concurrent original
15 jurisdiction with the family court over child custody proceedings
16 under chapter 26.10 RCW and parenting plans or residential schedules
17 under chapter 26.09, 26.26A, or 26.26B RCW as provided for in RCW
18 13.34.155.

19 (4) A juvenile subject to adult superior court jurisdiction under
20 subsection (1)(e)(i) through (v) of this section, who is detained
21 pending trial, may be detained in a detention facility as defined in
22 RCW 13.40.020 pending sentencing or a dismissal.

23 NEW SECTION. **Sec. 5.** RCW 13.34.270 (Child with developmental
24 disability—Out-of-home placement—Permanency planning hearing) and
25 2019 c 470 s 1, 2004 c 183 s 2, 2000 c 122 s 33, 1998 c 229 s 2, &
26 1997 c 386 s 19 are each repealed.

27 NEW SECTION. **Sec. 6.** RCW 74.13.350 is recodified as a section
28 in the chapter created in section 7 of this act.

29 NEW SECTION. **Sec. 7.** Sections 2 and 3 of this act constitute a
30 new chapter in Title 71A RCW.

Passed by the House February 19, 2020.
Passed by the Senate March 3, 2020.
Approved by the Governor March 18, 2020.
Filed in Office of Secretary of State March 18, 2020.

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