

2SHB 1219 - S COMM AMD
By Committee on Ways & Means

ADOPTED 04/10/2021

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

3 "NEW SECTION. **Sec. 1.** (1) The legislature recognizes that
4 dependency proceedings determine many critical aspects of a child's
5 future, including whether the child may remain at home with their
6 family, whether and how often the child sees their parents and
7 siblings if they do not remain with their family, where the child
8 attends school, and how long the child remains in state care.
9 Children and youth, regardless of age, have many legal rights at
10 stake in these proceedings, including a right to maintain family
11 relationships, a right to freedom from harm, and a right to
12 reasonable safety. Standards-based representation by a well-qualified
13 attorney can be invaluable in protecting and advancing the child's
14 legal rights and, where articulable, stated interests. Attorneys can
15 advise and assist children and youth in presenting their experiences
16 and position to the court, improving the court's comprehensive
17 decision making.

18 (2) The legislature further recognizes that appointing attorneys
19 to provide standards-based legal representation for children and
20 youth in dependency proceedings has been shown to result in more
21 timely permanency for children and youth, increased school and
22 placement stability, and increased contact with parents and siblings.

23 (3) The legislature finds that the current system for child legal
24 representation is inadequate and has resulted in a patchwork system
25 that varies by county leading to many children and youth not having
26 equal access to the court process. This is particularly true when
27 significant events, such as the COVID-19 pandemic, result in sudden
28 changes to court rules and procedures.

29 (4) The legislature further finds that Black and Indigenous
30 children and youth and other youth of color are much more likely to
31 be removed from their parents' care, placed into foster care, and
32 remain in the child welfare system longer than White children.

1 Systemic racism contributes to this overrepresentation and to the
2 lack of meaningful access to the court process for children and their
3 families. It is the intent of the legislature to ensure that any
4 expansion of legal representation actively combat this
5 disproportionality.

6 **Sec. 2.** RCW 13.34.090 and 2017 3rd sp.s. c 6 s 303 are each
7 amended to read as follows:

8 (1) Any party has a right to be represented by an attorney in all
9 proceedings under this chapter, to introduce evidence, to be heard in
10 his or her own behalf, to examine witnesses, to receive a decision
11 based solely on the evidence adduced at the hearing, and to an
12 unbiased fact finder.

13 (2) At all stages of a proceeding in which a child is alleged to
14 be dependent, the child's parent, guardian, or legal custodian has
15 the right to be represented by counsel, and if indigent, to have
16 counsel appointed for him or her by the court. Unless waived in
17 court, counsel shall be provided to the child's parent, guardian, or
18 legal custodian, if such person (a) has appeared in the proceeding or
19 requested the court to appoint counsel and (b) is financially unable
20 to obtain counsel because of indigency.

21 (3) At all stages of a proceeding in which a child is alleged to
22 be dependent, the child has the right to be represented by counsel.
23 Counsel shall be provided at public expense subject to the phase-in
24 schedule as provided in section 6 of this act.

25 (4) If a party to an action under this chapter is represented by
26 counsel, no order shall be provided to that party for his or her
27 signature without prior notice and provision of the order to counsel.

28 ~~((4))~~ (5) Copies of department ~~((or supervising agency))~~
29 records to which the child and the child's parents have legal access
30 pursuant to chapter 13.50 RCW shall be given to the ~~((child's~~
31 ~~parent))~~ child or child's counsel, and the parents, guardian, legal
32 custodian, or his or her legal counsel, prior to any shelter care
33 hearing and within ~~((fifteen))~~ 15 days after the department ~~((or~~
34 ~~supervising agency))~~ receives a written request for such records from
35 the ~~((parent))~~ child or child's counsel, and the parents, guardian,
36 legal custodian, or his or her legal counsel. These records shall be
37 provided to the child's parents, guardian, legal custodian, or legal
38 counsel a reasonable period of time prior to the shelter care hearing
39 in order to allow an opportunity to review the records prior to the

1 hearing. These records shall be legible and shall be provided at no
2 expense to the child or child's counsel, and the parents, guardian,
3 legal custodian, or his or her counsel. When the records are served
4 on legal counsel, legal counsel shall have the opportunity to review
5 the records with the ((parents)) client and shall review the records
6 with the ((parents)) client prior to the shelter care hearing.

7 **Sec. 3.** RCW 13.34.092 and 2000 c 122 s 6 are each amended to
8 read as follows:

9 At the commencement of the shelter care hearing the court shall
10 advise the parties of basic rights as provided in RCW 13.34.090 and
11 appoint counsel to the child's parent, guardian, or legal custodian
12 pursuant to RCW 13.34.090 if the parent ((~~or~~)), guardian, or legal
13 custodian is indigent unless counsel has been retained by the parent
14 ((~~or~~)), guardian, or legal custodian or the court finds that the
15 right to counsel has been expressly and voluntarily waived in court.

16 **Sec. 4.** RCW 13.34.100 and 2019 c 57 s 1 are each amended to read
17 as follows:

18 (1) The court shall appoint a guardian ad litem for a child who
19 is the subject of an action under this chapter, unless a court for
20 good cause finds the appointment unnecessary. The requirement of a
21 guardian ad litem may be deemed satisfied if the child is represented
22 by an independent attorney in the proceedings. The court shall
23 attempt to match a child with special needs with a guardian ad litem
24 who has specific training or education related to the child's
25 individual needs.

26 (2) If the court does not have available to it a guardian ad
27 litem program with a sufficient number of volunteers, the court may
28 appoint a suitable person to act as guardian ad litem for the child
29 under this chapter. Another party to the proceeding or the party's
30 employee or representative shall not be so appointed.

31 (3) Each guardian ad litem program shall maintain a background
32 information record for each guardian ad litem in the program. The
33 background information record shall include, but is not limited to,
34 the following information:

- 35 (a) Level of formal education;
- 36 (b) General training related to the guardian ad litem's duties;
- 37 (c) Specific training related to issues potentially faced by
38 children in the dependency system;

1 (d) Specific training or education related to child disability or
2 developmental issues;

3 (e) Number of years' experience as a guardian ad litem;

4 (f) Number of appointments as a guardian ad litem and the county
5 or counties of appointment;

6 (g) The names of any counties in which the person was removed
7 from a guardian ad litem registry pursuant to a grievance action, and
8 the name of the court and the cause number of any case in which the
9 court has removed the person for cause;

10 (h) Founded allegations of abuse or neglect as defined in RCW
11 26.44.020;

12 (i) The results of an examination of state and national criminal
13 identification data. The examination shall consist of a background
14 check as allowed through the Washington state criminal records
15 privacy act under RCW 10.97.050, the Washington state patrol criminal
16 identification system under RCW 43.43.832 through 43.43.834, and the
17 federal bureau of investigation. The background check shall be done
18 through the Washington state patrol criminal identification section
19 and must include a national check from the federal bureau of
20 investigation based on the submission of fingerprints; and

21 (j) Criminal history, as defined in RCW 9.94A.030, for the period
22 covering (~~ten~~) 10 years prior to the appointment.

23 The background information record shall be updated annually and
24 fingerprint-based background checks shall be updated every three
25 years. As a condition of appointment, the guardian ad litem's
26 background information record shall be made available to the court.
27 If the appointed guardian ad litem is not a member of a guardian ad
28 litem program a suitable person appointed by the court to act as
29 guardian ad litem shall provide the background information record to
30 the court.

31 Upon appointment, the guardian ad litem, or guardian ad litem
32 program, shall provide the parties or their attorneys with a copy of
33 the background information record. The portion of the background
34 information record containing the results of the criminal background
35 check and the criminal history shall not be disclosed to the parties
36 or their attorneys. The background information record shall not
37 include identifying information that may be used to harm a guardian
38 ad litem, such as home addresses and home telephone numbers, and for
39 volunteer guardians ad litem the court may allow the use of maiden
40 names or pseudonyms as necessary for their safety.

1 (4) The appointment of the guardian ad litem shall remain in
2 effect until the court discharges the appointment or no longer has
3 jurisdiction, whichever comes first. The guardian ad litem may also
4 be discharged upon entry of an order of guardianship.

5 (5) A guardian ad litem through an attorney, or as otherwise
6 authorized by the court, shall have the right to present evidence,
7 examine and cross-examine witnesses, and to be present at all
8 hearings. A guardian ad litem shall receive copies of all pleadings
9 and other documents filed or submitted to the court, and notice of
10 all hearings according to court rules. The guardian ad litem shall
11 receive all notice contemplated for a parent or other party in all
12 proceedings under this chapter.

13 ~~(6) ((a) The court must appoint an attorney for a child in a~~
14 ~~dependency proceeding six months after granting a petition to~~
15 ~~terminate the parent and child relationship pursuant to RCW 13.34.180~~
16 ~~and when there is no remaining parent with parental rights.~~

17 ~~The court must appoint an attorney for a child when there is no~~
18 ~~remaining parent with parental rights for six months or longer prior~~
19 ~~to July 1, 2014, if the child is not already represented.~~

20 ~~The court may appoint one attorney to a group of siblings, unless~~
21 ~~there is a conflict of interest, or such representation is otherwise~~
22 ~~inconsistent with the rules of professional conduct.~~

23 ~~(b) Legal services provided by an attorney appointed pursuant to~~
24 ~~(a) of this subsection do not include representation of the child in~~
25 ~~any appellate proceedings relative to the termination of the parent~~
26 ~~and child relationship.~~

27 ~~(c)(i) Subject to the availability of amounts appropriated for~~
28 ~~this specific purpose, the state shall pay the costs of legal~~
29 ~~services provided by an attorney appointed pursuant to (a) of this~~
30 ~~subsection, if the legal services are provided in accordance with the~~
31 ~~standards of practice, voluntary training, and caseload limits~~
32 ~~developed and recommended by the statewide children's representation~~
33 ~~work group pursuant to section 5, chapter 180, Laws of 2010. Caseload~~
34 ~~limits must be calculated pursuant to (c)(ii) of this subsection.~~

35 ~~(ii) Counties are encouraged to set caseloads as low as possible~~
36 ~~and to account for the individual needs of the children in care.~~
37 ~~Notwithstanding the caseload limits developed and recommended by the~~
38 ~~statewide children's representation work group pursuant to section 5,~~
39 ~~chapter 180, Laws of 2010, when one attorney represents a sibling~~
40 ~~group, the first child is counted as one case, and each child~~

1 thereafter is counted as one-half case to determine compliance with
2 the caseload standards pursuant to (c) (i) of this subsection and RCW
3 2.53.045.

4 (iii) The office of civil legal aid is responsible for
5 implementation of (c) (i) and (ii) of this subsection as provided in
6 RCW 2.53.045.

7 (7) (a) The court may appoint an attorney to represent the child's
8 position in any dependency action on its own initiative, or upon the
9 request of a parent, the child, a guardian ad litem, a caregiver, or
10 the department.

11 (b) (i) If the court has not already appointed an attorney for a
12 child, or the child is not represented by a privately retained
13 attorney:

14 (A) The child's caregiver, or any individual, may refer the child
15 to an attorney for the purposes of filing a motion to request
16 appointment of an attorney at public expense; or

17 (B) The child or any individual may retain an attorney for the
18 child for the purposes of filing a motion to request appointment of
19 an attorney at public expense.

20 (ii) Nothing in this subsection (7) (b) shall be construed to
21 change or alter the confidentiality provisions of RCW 13.50.100.

22 (c) Pursuant to this subsection, the department or supervising
23 agency and the child's guardian ad litem shall each notify a child of
24 his or her right to request an attorney and shall ask the child
25 whether he or she wishes to have an attorney. The department or
26 supervising agency and the child's guardian ad litem shall notify the
27 child and make this inquiry immediately after:

28 (i) The date of the child's twelfth birthday;

29 (ii) Assignment of a case involving a child age twelve or older;
30 or

31 (iii) July 1, 2010, for a child who turned twelve years old
32 before July 1, 2010.

33 (d) The department or supervising agency and the child's guardian
34 ad litem shall repeat the notification and inquiry at least annually
35 and upon the filing of any motion or petition affecting the child's
36 placement, services, or familial relationships.

37 (e) The notification and inquiry is not required if the child has
38 already been appointed an attorney.

39 (f) The department or supervising agency shall note in the
40 child's individual service and safety plan, and the guardian ad litem

1 shall note in his or her report to the court, that the child was
2 notified of the right to request an attorney and indicate the child's
3 position regarding appointment of an attorney.

4 ~~(g) At the first regularly scheduled hearing after:~~

5 ~~(i) The date of the child's twelfth birthday;~~

6 ~~(ii) The date that a dependency petition is filed pursuant to
7 this chapter on a child age twelve or older; or~~

8 ~~(iii) July 1, 2010, for a child who turned twelve years old
9 before July 1, 2010;~~

10 the court shall inquire whether the child has received notice of his
11 or her right to request an attorney from the department or
12 supervising agency and the child's guardian ad litem. The court shall
13 make an additional inquiry at the first regularly scheduled hearing
14 after the child's fifteenth birthday. No inquiry is necessary if the
15 child has already been appointed an attorney.

16 ~~(8))~~ For the purposes of child abuse prevention and treatment
17 act (42 U.S.C. Secs. 5101 et seq.) grants to this state under P.L.
18 93-247, or any related state or federal legislation, a person
19 appointed pursuant to this section shall be deemed a guardian ad
20 litem.

21 ~~((9))~~ (7) When a court-appointed special advocate or volunteer
22 guardian ad litem is requested on a case, the program shall give the
23 court the name of the person it recommends. The program shall attempt
24 to match a child with special needs with a guardian ad litem who has
25 specific training or education related to the child's individual
26 needs. The court shall immediately appoint the person recommended by
27 the program.

28 ~~((10))~~ (8) If a party in a case reasonably believes the court-
29 appointed special advocate or volunteer guardian ad litem is
30 inappropriate or unqualified, the party may request a review of the
31 appointment by the program. The program must complete the review
32 within five judicial days and remove any appointee for good cause. If
33 the party seeking the review is not satisfied with the outcome of the
34 review, the party may file a motion with the court for the removal of
35 the court-appointed special advocate or volunteer guardian ad litem
36 on the grounds the advocate or volunteer is inappropriate or
37 unqualified.

38 ~~((11))~~ (9) The court shall remove any person from serving as a
39 court-appointed special advocate or volunteer guardian ad litem if
40 the court is notified that the person has been removed from another

1 county's registry pursuant to the disposition of a grievance or if
2 the court is otherwise made aware that the individual was found by a
3 court to have made a materially false statement that he or she knows
4 to be false during an official proceeding under oath.

5 NEW SECTION. **Sec. 5.** A new section is added to chapter 2.53 RCW
6 to read as follows:

7 (1) The statewide children's legal representation program is
8 established within the office of civil legal aid. The children's
9 legal representation program shall ensure the provision of standards-
10 based representation informed by best practice models, rigorous data
11 analysis, race and other equity considerations that cause or
12 perpetuate racial and other disparities in the child welfare system,
13 involvement of stakeholders, including youth and young adults
14 impacted by the system.

15 (2) The statewide children's legal representation program is
16 responsible for implementation of section 6 of this act and RCW
17 2.53.045 except that it is the court's responsibility to appoint
18 attorneys in dependency proceedings.

19 NEW SECTION. **Sec. 6.** A new section is added to chapter 13.34
20 RCW to read as follows:

21 (1)(a) The court shall appoint an attorney for a child in a
22 dependency proceeding six months after granting a petition to
23 terminate the parent and child relationship pursuant to RCW 13.34.180
24 and when there is no remaining parent with parental rights.

25 (b) The court may appoint one attorney to a group of siblings,
26 unless there is a conflict of interest, or such representation is
27 otherwise inconsistent with the rules of professional conduct.

28 (c) Subject to availability of amounts appropriated for this
29 specific purpose, the state shall pay the costs of legal services
30 provided by an attorney appointed pursuant to (a) of this subsection
31 if the legal services are provided in accordance with the rules of
32 professional conduct, the standards of practice, caseload limits, and
33 training guidelines adopted by the statewide children's
34 representation work group pursuant to section 5, chapter 180, Laws of
35 2010 until such time that new recommendations are adopted by the
36 children's representation work group established in section 9 of this
37 act.

1 (d) The office of civil legal aid is responsible for
2 implementation of (c) of this subsection as provided in RCW 2.53.045.

3 (e) Legal services provided by an attorney pursuant to (a) of
4 this subsection do not include representation of the child in any
5 appellate proceedings relative to the termination of the parent and
6 child relationship.

7 (2)(a) The court may appoint an attorney to represent the child's
8 position in any dependency action on its own initiative, or upon the
9 request of a parent, the child, a guardian ad litem, a caregiver, or
10 the department.

11 (b)(i) If the court has not already appointed an attorney for a
12 child, or the child is not represented by a privately retained
13 attorney:

14 (A) The child's caregiver, or any individual, may refer the child
15 to an attorney for the purposes of filing a motion to request
16 appointment of an attorney at public expense; or

17 (B) The child or any individual may retain an attorney for the
18 child for the purposes of filing a motion to request appointment of
19 an attorney at public expense.

20 (ii) Nothing in this subsection changes or alters the
21 confidentiality provisions of RCW 13.50.100.

22 (c) The department and the child's guardian ad litem shall each
23 notify a child of the child's right to request an attorney and shall
24 ask the child whether the child wishes to have an attorney. The
25 department and the child's guardian ad litem shall notify the child
26 and make this inquiry immediately after:

27 (i) The date of the child's 12th birthday; or

28 (ii) Assignment of a case involving a child age 12 or older.

29 (d) The department and the child's guardian ad litem shall repeat
30 the notification and inquiry at least annually and upon the filing of
31 any motion or petition affecting the child's placement, services, or
32 familial relationships.

33 (e) The notification and inquiry is not required if the child has
34 already been appointed an attorney.

35 (f) The department shall note in the child's individual service
36 and safety plan, and the guardian ad litem shall note in his or her
37 report to the court, that the child was notified of the right to
38 request an attorney and indicate the child's position regarding
39 appointment of an attorney.

40 (g) At the first regularly scheduled hearing after:

1 (i) The date of the child's 12th birthday; or
2 (ii) The date that a dependency petition is filed pursuant to
3 this chapter on a child age 12 or older;
4 the court shall inquire whether the child has received notice of his
5 or her right to request an attorney from the department and the
6 child's guardian ad litem. The court shall make an additional inquiry
7 at the first regularly scheduled hearing after the child's 15th
8 birthday. No inquiry is necessary if the child has already been
9 appointed an attorney.

10 (3) Subject to the availability of amounts appropriated for this
11 specific purpose:

12 (a) Pursuant to the phase-in schedule set forth in (c) of this
13 subsection (3), the court must appoint an attorney for every child in
14 a dependency proceeding as follows:

15 (i) For a child under the age of eight, appointment must be made
16 for the dependency and termination action upon the filing of a
17 termination petition. Nothing in this subsection shall be construed
18 to limit the ability of the court to appoint an attorney to represent
19 the child's position in a dependency action on its own initiative, or
20 upon the request of a parent, the child, a guardian ad litem, a
21 caregiver, or the department, prior to the filing of a termination
22 petition.

23 (ii) For a child between the ages of eight through 17,
24 appointment must be made upon the filing of a new dependency petition
25 at or before the commencement of the shelter care hearing.

26 (iii) For any pending or open dependency case where the child is
27 unrepresented and is entitled to the appointment of an attorney under
28 (a)(i) or (ii) of this subsection, appointment must be made at or
29 before the next hearing if the child is eligible for representation
30 pursuant to the phase-in schedule. At the next hearing, the court
31 shall inquire into the status of attorney representation for the
32 child, and if the child is not yet represented, appointment must be
33 made at the hearing.

34 (b) Appointment is not required if the court has already
35 appointed an attorney for the child, or the child is represented by a
36 privately retained attorney.

37 (c) The statewide children's legal representation program shall
38 develop a schedule for court appointment of attorneys for every child
39 in dependency proceedings that will be phased in on a county-by-

1 county basis over a six-year period. The schedule required under this
2 subsection must:

3 (i) Prioritize implementation in counties that have:

4 (A) No current practice of appointment of attorneys for children
5 in dependency cases; or

6 (B) Significant prevalence of racial disproportionality or
7 disparities in the number of dependent children compared to the
8 general population, or both;

9 (ii) Include representation in at least:

10 (A) Three counties beginning July 1, 2022;

11 (B) Eight counties beginning January 1, 2023;

12 (C) Fifteen counties beginning January 1, 2024;

13 (D) Twenty counties beginning January 1, 2025;

14 (E) Thirty counties beginning January 1, 2026; and

15 (iii) Achieve full statewide implementation by January 1, 2027.

16 (d) In cases where the statewide children's legal representation
17 program provides funding and where consistent with its administration
18 and oversight responsibilities, the statewide children's legal
19 representation program should prioritize continuity of counsel for
20 children who are already represented at county expense when the
21 statewide children's legal representation program becomes effective
22 in a county. The statewide children's legal representation program
23 shall coordinate with relevant county stakeholders to determine how
24 best to prioritize this continuity of counsel.

25 (e) The statewide children's legal representation program is
26 responsible for the recruitment, training, and oversight of attorneys
27 providing standards-based representation pursuant to (a) and (c) of
28 this subsection as provided in RCW 2.53.045 and shall ensure that
29 attorneys representing children pursuant to this section provide
30 legal services according to the rules of professional conduct, the
31 standards of practice, caseload limits, and training guidelines
32 adopted by the children's representation work group established in
33 section 9 of this act.

34 **Sec. 7.** RCW 2.53.045 and 2018 c 21 s 3 are each amended to read
35 as follows:

36 (1) Money appropriated by the legislature for legal services
37 provided by an attorney appointed pursuant to ~~((RCW 13.34.100))~~
38 section 6 of this act must be administered by the office of civil
39 legal aid established under RCW 2.53.020.

1 (2) The (~~office of civil legal aid~~) statewide children's legal
2 representation program shall enter into contracts with attorneys and
3 agencies for the provision of legal services under (~~RCW 13.34.100~~)
4 section 5 of this act to remain within appropriated amounts.

5 (3) Prior to distributing state funds under subsection (2) of
6 this section, the (~~office of civil legal aid~~) statewide children's
7 legal representation program must verify that attorneys providing
8 legal representation to children under (~~RCW 13.34.100~~) section 6 of
9 this act meet the standards of practice, (~~voluntary training, and~~)
10 caseload limits (~~developed and recommended by the statewide~~
11 ~~children's representation work group pursuant to section 5, chapter~~
12 ~~180, Laws of 2010. Caseload limits described in this subsection must~~
13 ~~be determined as provided in RCW 13.34.100(6)(c)(ii)), and training~~
14 guidelines adopted by the children's representation work group
15 established in section 9 of this act.

16 NEW SECTION. Sec. 8. A new section is added to chapter 13.34
17 RCW to read as follows:

18 (1) The Washington state center for court research of the
19 administrative office of the courts shall convene stakeholders,
20 including youth and young adults, to identify the relevant outcome
21 measures and data collection methods that appropriately protect
22 attorney-client privilege to effectively assess:

23 (a) The number of youth for whom attorneys are appointed pursuant
24 to section 6(3) of this act; and

25 (b) The short and longitudinal impact of standards-based legal
26 representation on case outcomes including family reunification,
27 number of placement changes, and placement with kin of appointment of
28 standards-based representation disaggregated by race, ethnicity, age,
29 disability status, sexual and gender identity, and geography.

30 (2) By November 30, 2022, and in compliance with RCW 43.01.036,
31 the Washington state center for court research of the administrative
32 office of the courts shall submit an annual report to the appropriate
33 committees of the legislature and the governor outlining the outcome
34 measures identified under this section.

35 NEW SECTION. Sec. 9. A new section is added to chapter 2.53 RCW
36 to read as follows:

37 (1) The legislature recognizes that substantial changes have
38 occurred that inform the best practices related to representation of

1 children and youth in dependency cases, including new understandings
2 relating to equity, disproportionality, cultural competency, and
3 trauma-informed representation. The legislature further recognizes
4 the role that training, supportive supervision, and competitive
5 compensation structures play in recruiting and retaining a diverse
6 pool of well-qualified attorneys. The legislature further recognizes
7 that standards-based representation continues to be necessary to
8 ensure effective representation of the stated and legal interests of
9 children and youth involved in the child welfare system.

10 (2) The legislature therefore respectfully requests that the
11 supreme court's commission on children in foster care convene a
12 children's representation work group composed of relevant
13 stakeholders, including an independent expert in attorneys' ethical
14 duties, to review and update, where appropriate, the standards of
15 practice, caseload limits, and training guidelines, referenced in RCW
16 2.53.045 and section 6 of this act. The updated standards shall be
17 developed by March 31, 2022.

18 (3) In addition, the work group is requested to review, in
19 consultation with relevant stakeholders, the available research and
20 best practices regarding representation of the legal interests of
21 children under the age of eight, and submit to the legislature
22 recommendations regarding the appropriate model of representation,
23 including timing of appointment, training and oversight needs, and
24 other considerations. The recommendations shall be reported to the
25 relevant committees of the legislature by March 31, 2022.

26 (4) This section expires July 1, 2022.

27 **Sec. 10.** RCW 13.34.267 and 2018 c 34 s 1 are each amended to
28 read as follows:

29 (1) In order to facilitate the delivery of extended foster care
30 services, the court, upon the agreement of the youth to participate
31 in the extended foster care program, shall maintain the dependency
32 proceeding for any youth who is dependent at the age of eighteen
33 years and who, at the time of his or her eighteenth birthday, is:

34 (a) Enrolled in a secondary education program or a secondary
35 education equivalency program;

36 (b) Enrolled and participating in a postsecondary academic or
37 postsecondary vocational program, or has applied for and can
38 demonstrate that he or she intends to timely enroll in a
39 postsecondary academic or postsecondary vocational program;

1 (c) Participating in a program or activity designed to promote
2 employment or remove barriers to employment;

3 (d) Engaged in employment for eighty hours or more per month; or

4 (e) Not able to engage in any of the activities described in (a)
5 through (d) of this subsection due to a documented medical condition.

6 (2) If the court maintains the dependency proceeding of a youth
7 pursuant to subsection (1) of this section, the youth is eligible to
8 receive extended foster care services pursuant to RCW 74.13.031,
9 subject to the youth's continuing eligibility and agreement to
10 participate.

11 (3) A dependent youth receiving extended foster care services is
12 a party to the dependency proceeding. The youth's parent or guardian
13 must be dismissed from the dependency proceeding when the youth
14 reaches the age of eighteen.

15 (4) The court shall dismiss the dependency proceeding for any
16 youth who is a dependent and who, at the age of eighteen years, does
17 not meet any of the criteria described in subsection (1)(a) through
18 (e) of this section or does not agree to participate in the program.

19 (5) The court shall order a youth participating in extended
20 foster care services to be under the placement and care authority of
21 the department, subject to the youth's continuing agreement to
22 participate in extended foster care services. The department may
23 establish foster care rates appropriate to the needs of the youth
24 participating in extended foster care services. The department's
25 placement and care authority over a youth receiving extended foster
26 care services is solely for the purpose of providing services and
27 does not create a legal responsibility for the actions of the youth
28 receiving extended foster care services.

29 (6) (a) The court shall appoint counsel to represent a youth, as
30 defined in RCW 13.34.030(2)(b), in dependency proceedings under this
31 section. Subject to amounts appropriated, the state shall pay the
32 costs of legal services provided by an attorney appointed pursuant to
33 this subsection based on the phase-in schedule outlined in section 6
34 of this act, provided that the legal services are provided in
35 accordance with the rules of professional conduct, the standards of
36 practice, caseload limits, and training guidelines adopted by the
37 children's representation work group established in section 9 of this
38 act.

39 (b) In cases where the statewide children's legal representation
40 program provides funding and where consistent with its administration

1 and oversight responsibilities, the statewide children's legal
2 representation program should prioritize continuity of counsel for
3 children who are already represented at county expense when the
4 statewide children's legal representation program becomes effective
5 in a county. The statewide children's legal representation program
6 shall coordinate with relevant county stakeholders to determine how
7 best to prioritize continuity of counsel.

8 (7) The case plan for and delivery of services to a youth
9 receiving extended foster care services is subject to the review
10 requirements set forth in RCW 13.34.138 and 13.34.145, and should be
11 applied in a developmentally appropriate manner, as they relate to
12 youth age eighteen to twenty-one years. Additionally, the court shall
13 consider:

14 (a) Whether the youth is safe in his or her placement;

15 (b) Whether the youth continues to be eligible for extended
16 foster care services;

17 (c) Whether the current placement is developmentally appropriate
18 for the youth;

19 (d) The youth's development of independent living skills; and

20 (e) The youth's overall progress toward transitioning to full
21 independence and the projected date for achieving such transition.

22 (8) Prior to the review hearing, the youth's attorney shall
23 indicate whether there are any contested issues and may provide
24 additional information necessary for the court's review.

25 NEW SECTION. Sec. 11. If specific funding for the purposes of
26 this act, referencing this act by bill or chapter number, is not
27 provided by June 30, 2021, in the omnibus appropriations act, this
28 act is null and void."

2SHB 1219 - S COMM AMD

By Committee on Ways & Means

ADOPTED 04/10/2021

29 On page 1, line 2 of the title, after "proceedings;" strike the
30 remainder of the title and insert "amending RCW 13.34.090, 13.34.092,
31 13.34.100, 2.53.045, and 13.34.267; adding new sections to chapter
32 2.53 RCW; adding new sections to chapter 13.34 RCW; creating new
33 sections; and providing an expiration date."

EFFECT: Clarifies that the appointment of an attorney applies for any open dependency case where a child is unrepresented and is entitled to an appointment based on the child's age and the stage of the dependency proceedings; clarifies the references to the Washington State Center for Court Research; and extends the deadline of the children's representation work group to March 31, 2022. Adds that the statewide children's legal representation program should prioritize continuity of counsel for children in cases where the statewide children's legal representation program provides funding and where consistent with its administration and oversight responsibilities; and makes technical corrections to properly cite subsections.

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