

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE HOUSE BILL 1219

Chapter 210, Laws of 2021

67th Legislature
2021 Regular Session

DEPENDENCY PROCEEDINGS—APPOINTMENT OF YOUTH COUNSEL

EFFECTIVE DATE: July 25, 2021

Passed by the House April 14, 2021
Yeas 84 Nays 13

LAURIE JINKINS

**Speaker of the House of
Representatives**

Passed by the Senate April 10, 2021
Yeas 40 Nays 7

DENNY HECK

President of the Senate

Approved May 10, 2021 3:06 PM

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 **SECOND SUBSTITUTE HOUSE BILL 1219** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

May 10, 2021

**Secretary of State
State of Washington**

SECOND SUBSTITUTE HOUSE BILL 1219

AS AMENDED BY THE SENATE

Passed Legislature - 2021 Regular Session

State of Washington 67th Legislature 2021 Regular Session

By House Appropriations (originally sponsored by Representatives Frame, J. Johnson, Ramos, Bateman, Peterson, Fitzgibbon, Davis, Ryu, Fey, Senn, Lovick, Chase, Orwall, Taylor, Santos, Thai, Ortiz-Self, Ormsby, Simmons, Slatter, Berg, Chopp, Bergquist, Callan, Valdez, Macri, Goodman, Tharinger, Harris-Talley, Ybarra, and Hackney)

READ FIRST TIME 02/22/21.

1 AN ACT Relating to the appointment of counsel for youth in
2 dependency court proceedings; amending RCW 13.34.090, 13.34.092,
3 13.34.100, 2.53.045, and 13.34.267; adding new sections to chapter
4 2.53 RCW; adding new sections to chapter 13.34 RCW; creating new
5 sections; and providing an expiration date.

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

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

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

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

12 (4) The legislature further finds that Black and Indigenous
13 children and youth and other youth of color are much more likely to
14 be removed from their parents' care, placed into foster care, and
15 remain in the child welfare system longer than White children.
16 Systemic racism contributes to this overrepresentation and to the
17 lack of meaningful access to the court process for children and their
18 families. It is the intent of the legislature to ensure that any
19 expansion of legal representation actively combat this
20 disproportionality.

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

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

28 (2) At all stages of a proceeding in which a child is alleged to
29 be dependent, the child's parent, guardian, or legal custodian has
30 the right to be represented by counsel, and if indigent, to have
31 counsel appointed for him or her by the court. Unless waived in
32 court, counsel shall be provided to the child's parent, guardian, or
33 legal custodian, if such person (a) has appeared in the proceeding or
34 requested the court to appoint counsel and (b) is financially unable
35 to obtain counsel because of indigency.

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

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

4 ~~((4))~~ (5) Copies of department ~~((or supervising agency))~~
5 records to which the child and the child's parents have legal access
6 pursuant to chapter 13.50 RCW shall be given to the ~~((child's~~
7 ~~parent))~~ child or child's counsel, and the parents, guardian, legal
8 custodian, or his or her legal counsel, prior to any shelter care
9 hearing and within ~~((fifteen))~~ 15 days after the department ~~((or~~
10 ~~supervising agency))~~ receives a written request for such records from
11 the ~~((parent))~~ child or child's counsel, and the parents, guardian,
12 legal custodian, or his or her legal counsel. These records shall be
13 provided to the child's parents, guardian, legal custodian, or legal
14 counsel a reasonable period of time prior to the shelter care hearing
15 in order to allow an opportunity to review the records prior to the
16 hearing. These records shall be legible and shall be provided at no
17 expense to the child or child's counsel, and the parents, guardian,
18 legal custodian, or his or her counsel. When the records are served
19 on legal counsel, legal counsel shall have the opportunity to review
20 the records with the ~~((parents))~~ client and shall review the records
21 with the ~~((parents))~~ client prior to the shelter care hearing.

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

24 At the commencement of the shelter care hearing the court shall
25 advise the parties of basic rights as provided in RCW 13.34.090 and
26 appoint counsel to the child's parent, guardian, or legal custodian
27 pursuant to RCW 13.34.090 if the parent ~~((or)),~~ guardian, or legal
28 custodian is indigent unless counsel has been retained by the parent
29 ~~((or)),~~ guardian, or legal custodian or the court finds that the
30 right to counsel has been expressly and voluntarily waived in court.

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

33 (1) The court shall appoint a guardian ad litem for a child who
34 is the subject of an action under this chapter, unless a court for
35 good cause finds the appointment unnecessary. The requirement of a
36 guardian ad litem may be deemed satisfied if the child is represented
37 by an independent attorney in the proceedings. The court shall
38 attempt to match a child with special needs with a guardian ad litem

1 who has specific training or education related to the child's
2 individual needs.

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

8 (3) Each guardian ad litem program shall maintain a background
9 information record for each guardian ad litem in the program. The
10 background information record shall include, but is not limited to,
11 the following information:

12 (a) Level of formal education;

13 (b) General training related to the guardian ad litem's duties;

14 (c) Specific training related to issues potentially faced by
15 children in the dependency system;

16 (d) Specific training or education related to child disability or
17 developmental issues;

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

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

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

25 (h) Founded allegations of abuse or neglect as defined in RCW
26 26.44.020;

27 (i) The results of an examination of state and national criminal
28 identification data. The examination shall consist of a background
29 check as allowed through the Washington state criminal records
30 privacy act under RCW 10.97.050, the Washington state patrol criminal
31 identification system under RCW 43.43.832 through 43.43.834, and the
32 federal bureau of investigation. The background check shall be done
33 through the Washington state patrol criminal identification section
34 and must include a national check from the federal bureau of
35 investigation based on the submission of fingerprints; and

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

38 The background information record shall be updated annually and
39 fingerprint-based background checks shall be updated every three
40 years. As a condition of appointment, the guardian ad litem's

1 background information record shall be made available to the court.
2 If the appointed guardian ad litem is not a member of a guardian ad
3 litem program a suitable person appointed by the court to act as
4 guardian ad litem shall provide the background information record to
5 the court.

6 Upon appointment, the guardian ad litem, or guardian ad litem
7 program, shall provide the parties or their attorneys with a copy of
8 the background information record. The portion of the background
9 information record containing the results of the criminal background
10 check and the criminal history shall not be disclosed to the parties
11 or their attorneys. The background information record shall not
12 include identifying information that may be used to harm a guardian
13 ad litem, such as home addresses and home telephone numbers, and for
14 volunteer guardians ad litem the court may allow the use of maiden
15 names or pseudonyms as necessary for their safety.

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

20 (5) A guardian ad litem through an attorney, or as otherwise
21 authorized by the court, shall have the right to present evidence,
22 examine and cross-examine witnesses, and to be present at all
23 hearings. A guardian ad litem shall receive copies of all pleadings
24 and other documents filed or submitted to the court, and notice of
25 all hearings according to court rules. The guardian ad litem shall
26 receive all notice contemplated for a parent or other party in all
27 proceedings under this chapter.

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

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

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

38 ~~(b) Legal services provided by an attorney appointed pursuant to~~
39 ~~(a) of this subsection do not include representation of the child in~~

1 ~~any appellate proceedings relative to the termination of the parent~~
2 ~~and child relationship.~~

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

11 ~~(ii) Counties are encouraged to set caseloads as low as possible~~
12 ~~and to account for the individual needs of the children in care.~~
13 ~~Notwithstanding the caseload limits developed and recommended by the~~
14 ~~statewide children's representation work group pursuant to section 5,~~
15 ~~chapter 180, Laws of 2010, when one attorney represents a sibling~~
16 ~~group, the first child is counted as one case, and each child~~
17 ~~thereafter is counted as one-half case to determine compliance with~~
18 ~~the caseload standards pursuant to (c) (i) of this subsection and RCW~~
19 ~~2.53.045.~~

20 ~~(iii) The office of civil legal aid is responsible for~~
21 ~~implementation of (c) (i) and (ii) of this subsection as provided in~~
22 ~~RCW 2.53.045.~~

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

27 ~~(b) (i) If the court has not already appointed an attorney for a~~
28 ~~child, or the child is not represented by a privately retained~~
29 ~~attorney:~~

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

33 ~~(B) The child or any individual may retain an attorney for the~~
34 ~~child for the purposes of filing a motion to request appointment of~~
35 ~~an attorney at public expense.~~

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

38 ~~(c) Pursuant to this subsection, the department or supervising~~
39 ~~agency and the child's guardian ad litem shall each notify a child of~~
40 ~~his or her right to request an attorney and shall ask the child~~

1 ~~whether he or she wishes to have an attorney. The department or~~
2 ~~supervising agency and the child's guardian ad litem shall notify the~~
3 ~~child and make this inquiry immediately after:~~

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

5 ~~(ii) Assignment of a case involving a child age twelve or older;~~

6 ~~or~~

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

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

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

15 ~~(f) The department or supervising agency shall note in the~~
16 ~~child's individual service and safety plan, and the guardian ad litem~~
17 ~~shall note in his or her report to the court, that the child was~~
18 ~~notified of the right to request an attorney and indicate the child's~~
19 ~~position regarding appointment of an attorney.~~

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

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

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

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

26 ~~the court shall inquire whether the child has received notice of his~~
27 ~~or her right to request an attorney from the department or~~
28 ~~supervising agency and the child's guardian ad litem. The court shall~~
29 ~~make an additional inquiry at the first regularly scheduled hearing~~
30 ~~after the child's fifteenth birthday. No inquiry is necessary if the~~
31 ~~child has already been appointed an attorney.~~

32 ~~(8))~~ For the purposes of child abuse prevention and treatment
33 act (42 U.S.C. Secs. 5101 et seq.) grants to this state under P.L.
34 93-247, or any related state or federal legislation, a person
35 appointed pursuant to this section shall be deemed a guardian ad
36 litem.

37 ~~((9))~~ (7) When a court-appointed special advocate or volunteer
38 guardian ad litem is requested on a case, the program shall give the
39 court the name of the person it recommends. The program shall attempt
40 to match a child with special needs with a guardian ad litem who has

1 specific training or education related to the child's individual
2 needs. The court shall immediately appoint the person recommended by
3 the program.

4 ~~((10))~~ (8) If a party in a case reasonably believes the court-
5 appointed special advocate or volunteer guardian ad litem is
6 inappropriate or unqualified, the party may request a review of the
7 appointment by the program. The program must complete the review
8 within five judicial days and remove any appointee for good cause. If
9 the party seeking the review is not satisfied with the outcome of the
10 review, the party may file a motion with the court for the removal of
11 the court-appointed special advocate or volunteer guardian ad litem
12 on the grounds the advocate or volunteer is inappropriate or
13 unqualified.

14 ~~((11))~~ (9) The court shall remove any person from serving as a
15 court-appointed special advocate or volunteer guardian ad litem if
16 the court is notified that the person has been removed from another
17 county's registry pursuant to the disposition of a grievance or if
18 the court is otherwise made aware that the individual was found by a
19 court to have made a materially false statement that he or she knows
20 to be false during an official proceeding under oath.

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

23 (1) The statewide children's legal representation program is
24 established within the office of civil legal aid. The children's
25 legal representation program shall ensure the provision of standards-
26 based representation informed by best practice models, rigorous data
27 analysis, race and other equity considerations that cause or
28 perpetuate racial and other disparities in the child welfare system,
29 involvement of stakeholders, including youth and young adults
30 impacted by the system.

31 (2) The statewide children's legal representation program is
32 responsible for implementation of section 6 of this act and RCW
33 2.53.045 except that it is the court's responsibility to appoint
34 attorneys in dependency proceedings.

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

37 (1)(a) The court shall appoint an attorney for a child in a
38 dependency proceeding six months after granting a petition to

1 terminate the parent and child relationship pursuant to RCW 13.34.180
2 and when there is no remaining parent with parental rights.

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

6 (c) Subject to availability of amounts appropriated for this
7 specific purpose, the state shall pay the costs of legal services
8 provided by an attorney appointed pursuant to (a) of this subsection
9 if the legal services are provided in accordance with the rules of
10 professional conduct, the standards of practice, caseload limits, and
11 training guidelines adopted by the statewide children's
12 representation work group pursuant to section 5, chapter 180, Laws of
13 2010 until such time that new recommendations are adopted by the
14 children's representation work group established in section 9 of this
15 act.

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

18 (e) Legal services provided by an attorney pursuant to (a) of
19 this subsection do not include representation of the child in any
20 appellate proceedings relative to the termination of the parent and
21 child relationship.

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

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

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

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

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

37 (c) The department and the child's guardian ad litem shall each
38 notify a child of the child's right to request an attorney and shall
39 ask the child whether the child wishes to have an attorney. The

1 department and the child's guardian ad litem shall notify the child
2 and make this inquiry immediately after:

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

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

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

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

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

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

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

18 (ii) The date that a dependency petition is filed pursuant to
19 this chapter on a child age 12 or older;

20 the court shall inquire whether the child has received notice of his
21 or her right to request an attorney from the department and the
22 child's guardian ad litem. The court shall make an additional inquiry
23 at the first regularly scheduled hearing after the child's 15th
24 birthday. No inquiry is necessary if the child has already been
25 appointed an attorney.

26 (3) Subject to the availability of amounts appropriated for this
27 specific purpose:

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

31 (i) For a child under the age of eight, appointment must be made
32 for the dependency and termination action upon the filing of a
33 termination petition. Nothing in this subsection shall be construed
34 to limit the ability of the court to appoint an attorney to represent
35 the child's position in a dependency action on its own initiative, or
36 upon the request of a parent, the child, a guardian ad litem, a
37 caregiver, or the department, prior to the filing of a termination
38 petition.

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

4 (iii) For any pending or open dependency case where the child is
5 unrepresented and is entitled to the appointment of an attorney under
6 (a)(i) or (ii) of this subsection, appointment must be made at or
7 before the next hearing if the child is eligible for representation
8 pursuant to the phase-in schedule. At the next hearing, the court
9 shall inquire into the status of attorney representation for the
10 child, and if the child is not yet represented, appointment must be
11 made at the hearing.

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

15 (c) The statewide children's legal representation program shall
16 develop a schedule for court appointment of attorneys for every child
17 in dependency proceedings that will be phased in on a county-by-
18 county basis over a six-year period. The schedule required under this
19 subsection must:

20 (i) Prioritize implementation in counties that have:

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

23 (B) Significant prevalence of racial disproportionality or
24 disparities in the number of dependent children compared to the
25 general population, or both;

26 (ii) Include representation in at least:

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

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

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

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

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

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

33 (d) In cases where the statewide children's legal representation
34 program provides funding and where consistent with its administration
35 and oversight responsibilities, the statewide children's legal
36 representation program should prioritize continuity of counsel for
37 children who are already represented at county expense when the
38 statewide children's legal representation program becomes effective
39 in a county. The statewide children's legal representation program

1 shall coordinate with relevant county stakeholders to determine how
2 best to prioritize this continuity of counsel.

3 (e) The statewide children's legal representation program is
4 responsible for the recruitment, training, and oversight of attorneys
5 providing standards-based representation pursuant to (a) and (c) of
6 this subsection as provided in RCW 2.53.045 and shall ensure that
7 attorneys representing children pursuant to this section provide
8 legal services according to the rules of professional conduct, the
9 standards of practice, caseload limits, and training guidelines
10 adopted by the children's representation work group established in
11 section 9 of this act.

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

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

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

22 (3) Prior to distributing state funds under subsection (2) of
23 this section, the ~~((office of civil legal aid))~~ statewide children's
24 legal representation program must verify that attorneys providing
25 legal representation to children under ~~((RCW 13.34.100))~~ section 6 of
26 this act meet the standards of practice, ~~((voluntary training, and))~~
27 caseload limits ~~((developed and recommended by the statewide~~
28 ~~children's representation work group pursuant to section 5, chapter~~
29 ~~180, Laws of 2010. Caseload limits described in this subsection must~~
30 ~~be determined as provided in RCW 13.34.100(6)(c)(ii))~~, and training
31 guidelines adopted by the children's representation work group
32 established in section 9 of this act.

33 NEW SECTION. **Sec. 8.** A new section is added to chapter 13.34
34 RCW to read as follows:

35 (1) The Washington state center for court research of the
36 administrative office of the courts shall convene stakeholders,
37 including youth and young adults, to identify the relevant outcome

1 measures and data collection methods that appropriately protect
2 attorney-client privilege to effectively assess:

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

5 (b) The short and longitudinal impact of standards-based legal
6 representation on case outcomes including family reunification,
7 number of placement changes, and placement with kin of appointment of
8 standards-based representation disaggregated by race, ethnicity, age,
9 disability status, sexual and gender identity, and geography.

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

15 NEW SECTION. **Sec. 9.** A new section is added to chapter 2.53 RCW
16 to read as follows:

17 (1) The legislature recognizes that substantial changes have
18 occurred that inform the best practices related to representation of
19 children and youth in dependency cases, including new understandings
20 relating to equity, disproportionality, cultural competency, and
21 trauma-informed representation. The legislature further recognizes
22 the role that training, supportive supervision, and competitive
23 compensation structures play in recruiting and retaining a diverse
24 pool of well-qualified attorneys. The legislature further recognizes
25 that standards-based representation continues to be necessary to
26 ensure effective representation of the stated and legal interests of
27 children and youth involved in the child welfare system.

28 (2) The legislature therefore respectfully requests that the
29 supreme court's commission on children in foster care convene a
30 children's representation work group composed of relevant
31 stakeholders, including an independent expert in attorneys' ethical
32 duties, to review and update, where appropriate, the standards of
33 practice, caseload limits, and training guidelines, referenced in RCW
34 2.53.045 and section 6 of this act. The updated standards shall be
35 developed by March 31, 2022.

36 (3) In addition, the work group is requested to review, in
37 consultation with relevant stakeholders, the available research and
38 best practices regarding representation of the legal interests of
39 children under the age of eight, and submit to the legislature

1 recommendations regarding the appropriate model of representation,
2 including timing of appointment, training and oversight needs, and
3 other considerations. The recommendations shall be reported to the
4 relevant committees of the legislature by March 31, 2022.

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

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

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

13 (a) Enrolled in a secondary education program or a secondary
14 education equivalency program;

15 (b) Enrolled and participating in a postsecondary academic or
16 postsecondary vocational program, or has applied for and can
17 demonstrate that he or she intends to timely enroll in a
18 postsecondary academic or postsecondary vocational program;

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

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

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

24 (2) If the court maintains the dependency proceeding of a youth
25 pursuant to subsection (1) of this section, the youth is eligible to
26 receive extended foster care services pursuant to RCW 74.13.031,
27 subject to the youth's continuing eligibility and agreement to
28 participate.

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

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

37 (5) The court shall order a youth participating in extended
38 foster care services to be under the placement and care authority of
39 the department, subject to the youth's continuing agreement to

1 participate in extended foster care services. The department may
2 establish foster care rates appropriate to the needs of the youth
3 participating in extended foster care services. The department's
4 placement and care authority over a youth receiving extended foster
5 care services is solely for the purpose of providing services and
6 does not create a legal responsibility for the actions of the youth
7 receiving extended foster care services.

8 (6) (a) The court shall appoint counsel to represent a youth, as
9 defined in RCW 13.34.030(2)(b), in dependency proceedings under this
10 section. Subject to amounts appropriated, the state shall pay the
11 costs of legal services provided by an attorney appointed pursuant to
12 this subsection based on the phase-in schedule outlined in section 6
13 of this act, provided that the legal services are provided in
14 accordance with the rules of professional conduct, the standards of
15 practice, caseload limits, and training guidelines adopted by the
16 children's representation work group established in section 9 of this
17 act.

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

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

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

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

36 (c) Whether the current placement is developmentally appropriate
37 for the youth;

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

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

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

4 NEW SECTION. **Sec. 11.** If specific funding for the purposes of
5 this act, referencing this act by bill or chapter number, is not
6 provided by June 30, 2021, in the omnibus appropriations act, this
7 act is null and void.

Passed by the House April 14, 2021.

Passed by the Senate April 10, 2021.

Approved by the Governor May 10, 2021.

Filed in Office of Secretary of State May 10, 2021.

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