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**SENATE BILL 5805**

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**State of Washington**

**68th Legislature**

**2024 Regular Session**

**By** Senators Frame, Boehnke, Kuderer, Nguyen, Nobles, Trudeau, and C. Wilson

Prefiled 12/06/23. Read first time 01/08/24. Referred to Committee on Human Services.

1 AN ACT Relating to developing a schedule for court appointment of  
2 attorneys for children and youth in dependency and termination  
3 proceedings; and amending RCW 13.34.212.

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

5 **Sec. 1.** RCW 13.34.212 and 2021 c 210 s 6 are each amended to  
6 read as follows:

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

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

14 (c) Subject to availability of amounts appropriated for this  
15 specific purpose, the state shall pay the costs of legal services  
16 provided by an attorney appointed pursuant to (a) of this subsection  
17 if the legal services are provided in accordance with the rules of  
18 professional conduct, the standards of practice, caseload limits, and  
19 training guidelines adopted by the statewide children's  
20 representation work group pursuant to section 5, chapter 180, Laws of  
21 2010 until such time that new recommendations are adopted by the

1 children's representation work group established in section 9,  
2 chapter 210, Laws of 2021.

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

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

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

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

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

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

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

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

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

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

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

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

37 (f) The department shall note in the child's individual service  
38 and safety plan, and the guardian ad litem shall note in his or her  
39 report to the court, that the child was notified of the right to

1 request an attorney and indicate the child's position regarding  
2 appointment of an attorney.

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

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

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

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

13 (3) Subject to the availability of amounts appropriated for this  
14 specific purpose:

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

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

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

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

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

1 (c) The statewide children's legal representation program shall  
2 develop a schedule for court appointment of attorneys for every child  
3 in dependency proceedings that will be phased in on a county-by-  
4 county basis over a ~~((six-year))~~ seven-year period. The schedule  
5 required under this subsection must not add more than 1,250 cases  
6 each fiscal year and:

7 (i) ~~((Prioritize))~~ To the extent practicable, prioritize  
8 implementation in counties that have:

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

11 (B) Significant prevalence of racial disproportionality or  
12 disparities in the number of dependent children compared to the  
13 general population, or both;

14 (ii) Include representation in at least:

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

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

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

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

19 (E) Thirty counties beginning January 1, 2026;

20 (F) Thirty-six counties beginning in January 1, 2027; and

21 (iii) Achieve full statewide implementation by January 1,  
22 ~~((2027))~~ 2028.

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

32 (e) The statewide children's legal representation program is  
33 responsible for the recruitment, training, and oversight of attorneys  
34 providing standards-based representation pursuant to (a) and (c) of  
35 this subsection as provided in RCW 2.53.045 and shall ensure that  
36 attorneys representing children pursuant to this section provide  
37 legal services according to the rules of professional conduct, the  
38 standards of practice, caseload limits, and training guidelines

1 adopted by the children's representation work group established in  
2 section 9, chapter 210, Laws of 2021.

--- **END** ---