

2 **ESHB 1608** - S AMD
3 By Senator Talmadge

4 Adopted 4/19/91 - Voice Vote

5 On page 7, after line 5, insert the following:

6 "NEW SECTION. **Sec. 8.** It is the intent of the legislature to
7 provide timely, thorough, and fair procedures for resolution of
8 grievances of clients, foster parents, and the community resulting from
9 decisions made by the department of social and health services.
10 Grievances should be resolved at the lowest level possible, however,
11 all levels of the department should be held accountable and responsible
12 to individuals who are experiencing difficulties with their services or
13 decisions."

14 "NEW SECTION. **Sec. 9.** A new section is added to chapter 74.13 RCW
15 to read as follows:

16 The department shall develop and implement, by July 1, 1991, a
17 formal complaint resolution process to be used by clients of the
18 department, individual complainants, and foster parents who have
19 complaints regarding a policy of a division of the department or
20 procedure or the application of a division policy or procedure.

21 After a complainant initiates the complaint resolution process,
22 jurisdiction shall continue for thirty days unless an extension is
23 agreed to by the complainant. After thirty days, if no extension has
24 been agreed to, the complainant may file an application for an
25 adjudicative proceeding under chapter 34.05 RCW.

26 The department shall develop procedures to assure that clients of
27 the department and foster parents are informed of the availability of

1 the complaint resolution process and how to access it. The department
2 shall incorporate information regarding the complaint resolution
3 process into the training for foster parents and caseworkers.

4 Any client of the department, individual complainant, or foster
5 parent who uses the department's complaint resolution process and who
6 is subjected to any reprisal or retaliatory action undertaken after the
7 complainant makes his or her complaint known to the department may seek
8 judicial review of the reprisal or retaliatory action in superior
9 court. In such action, the reviewing court may award reasonable
10 attorneys' fees.

11 The department shall compile complaint resolution data including
12 about whom a complaint was made, by whom, and the outcome of the
13 complaint. The department shall submit semiannual reports, due January
14 and July of each year, beginning January 1992, to the senate children
15 and family services committee and the house of representatives human
16 services committee."

17 "NEW SECTION. Sec. 10. A new section is added to chapter 74.13
18 RCW to read as follows:

19 A foster parent or relative care provider may seek review of an
20 agency decision to remove a foster child residing in the home of the
21 foster parent or relative, pursuant to a court order entered in a
22 proceeding under this chapter, through use of the department's
23 complaint resolution process. The complaint resolution process shall
24 not be used to contest a decision to return the child home when a court
25 order has been entered to that effect or to contest a decision
26 regarding visitation. The foster parent or relative care provider
27 shall initiate that process within five days of receipt of the removal
28 decision notification. Thirty days following the initiation of the
29 department's complaint resolution process, unless an agreed extension

1 exists, the foster parent or relative care provider may file an
2 application for an adjudicative proceeding under chapter 34.05 RCW.
3 The agency shall schedule the adjudicative hearing within five days
4 after the application is filed. A final order shall be issued by the
5 presiding officer of the adjudicative proceeding within twenty-one days
6 after conclusion of the hearing or after submission of memos, briefs,
7 or proposed findings in accordance with RCW 34.05.461(7).

8 The general public shall be excluded from adjudicative proceedings
9 regarding agency removal decisions. Only parties to the adjudicative
10 or the dependency proceeding or persons the judge finds to have a
11 direct interest in the case shall be admitted."

12 "NEW SECTION. **Sec. 11.** A new section is added to chapter 74.13
13 RCW to read as follows:

14 If a foster parent or relative care provider is using the
15 department's complaint resolution process to review a decision to
16 remove a child from the foster family home or from a relative home or
17 has filed an application for an adjudicative proceeding, the foster
18 child shall remain in the foster or relative home unless the regional
19 administrator determines that the child's safety is in jeopardy or that
20 other compelling reasons exist necessitating the removal."

21 "**Sec. 12.** RCW 74.13.300 and 1990 c 284 s 12 are each amended to
22 read as follows:

23 (1) Whenever a child has been placed in a foster family home or the
24 home of a relative care provider by the department or a child-placing
25 agency and the child has thereafter resided in the home for at least
26 ninety consecutive days, the department or child-placing agency shall
27 notify the foster family in writing of the reasons upon which the

1 decision to move the child was based, at least five days prior to
2 moving the child to another placement, unless:

3 (a) A court order has been entered requiring an immediate change in
4 placement; or

5 (b) ~~((The child is being returned home;~~

6 ~~(e))) The child's safety is in jeopardy(~~(+ or~~~~

7 ~~(d) The child is residing in a receiving home or a group home)).~~

8 (2) If a decision is made by the department or a child-placing
9 agency to move a child to another placement, the foster family parent
10 or relative care provider shall receive written notice of his or her
11 right to request a review of the removal decision regarding a child
12 that is residing in the home of the foster parent or relative pursuant
13 to a court order entered in a proceeding under this chapter through the
14 department's complaint resolution process. The notification shall also
15 advise the foster family parent or relative care provider that if the
16 complaint remains unresolved after use of the department's complaint
17 resolution process, he or she may file an application for an
18 adjudicative proceeding under chapter 34.05 RCW. Notification of the
19 department's complaint resolution process and right to an adjudicative
20 proceeding is not required to be provided if:

21 (a) A court order has been entered requiring an immediate change in
22 placement; or

23 (b) The child is being returned home and a court order has been
24 entered to that effect.

25 (3) If the child has resided in a foster family home for less than
26 ninety days or if, due to one or more of the circumstances in
27 subsection (1) of this section, it is not possible to give five days'
28 notification, the department or child-placing agency shall notify the
29 foster family of proposed placement changes as soon as reasonably
30 possible.

1 (~~(3)~~) (4) This section is intended solely to assist in minimizing
2 disruption to the child in changing foster care placements. Nothing in
3 this section shall be construed to (~~require that a court hearing be~~
4 ~~held prior to changing a child's foster care placement nor to~~) create
5 any substantive custody rights in the foster parents."

6 "NEW SECTION. Sec. 13. A new section is added to chapter 74.13
7 RCW to read as follows:

8 The department shall establish rules specifying the criteria needed
9 to be a foster-adopt parent and create a license for that category of
10 foster parent. Specific placement procedures regarding foster-adopt
11 shall be incorporated into the training for caseworkers. The
12 department shall develop a form that constitutes an agreement between
13 the department and each foster-adopt parent. The agreement shall
14 include, in bold-faced, capital letters, the fact that there is no
15 guarantee that parental rights to a foster child being placed in the
16 foster-adopt home will be terminated. The form shall include a section
17 where the foster-adopt parents indicate what representations, if any,
18 were made to them by the department regarding adoption. The department
19 shall implement the foster-adopt agreement form by July 1, 1991, and
20 report back to the legislature by September 1, 1991. If parental
21 rights to the child in the foster-adopt home are terminated, the
22 foster-adopt parents shall be given first consideration to adopt the
23 foster child. If foster-adopt parents seek judicial review of a
24 decision to remove a foster child from their care and prevail, the
25 department shall pay court costs and attorneys' fees."

26 "NEW SECTION. Sec. 14. A new section is added to chapter 13.34
27 RCW to read as follows:

1 If a child has resided in a foster-adopt home for a period of
2 twelve months or more, the foster-adopt parents may file a petition
3 seeking termination of the parent and child relationship."

4 "Sec. 15. RCW 13.34.110 and 1983 c 311 s 4 are each amended to
5 read as follows:

6 The court shall hold a fact-finding hearing on the petition and,
7 unless the court dismisses the petition, shall make written findings of
8 fact, stating the reasons therefor, and after it has announced its
9 findings of fact shall hold a hearing to consider disposition of the
10 case immediately following the fact-finding hearing or at a continued
11 hearing within fourteen days or longer for good cause shown. The
12 parties need not appear at the fact-finding or dispositional hearing if
13 all are in agreement; but the court shall receive and review a social
14 study before entering an order based on agreement. No social file or
15 social study may be considered by the court in connection with the
16 fact-finding hearing or prior to factual determination, except as
17 otherwise admissible under the rules of evidence. Notice of the time
18 and place of the continued hearing may be given in open court. If
19 notice in open court is not given to a party, that party shall be
20 notified by mail of the time and place of any continued hearing.

21 All hearings may be conducted at any time or place within the
22 limits of the county, and such cases may not be heard in conjunction
23 with other business of any other division of the superior court. The
24 general public shall be excluded, and only such persons may be admitted
25 who are found by the judge to have a direct interest in the case or in
26 the work of the court. If a child resides in foster care or in the
27 home of a relative pursuant to a disposition order entered under RCW
28 13.34.130, the court shall allow the child's foster parent or relative
29 care provider to attend dependency review proceedings pertaining to the

1 child for the purpose of providing information about the child to the
2 court.

3 Stenographic notes or any device which accurately records the
4 proceedings may be required as provided in other civil cases pursuant
5 to RCW 2.32.200."

6 "NEW SECTION. Sec. 16. A new section is added to chapter 13.34
7 RCW to read as follows:

8 If a dependent child has resided in the home of a foster parent or
9 a relative for at least eighteen months pursuant to a court order
10 entered in a proceeding under this chapter, the foster parent or
11 relative may file a motion to intervene as a party in the action
12 pertaining to the child. The motion to intervene shall be served upon
13 the parties to the action as provided in applicable juvenile court and
14 superior court rules."

15 "NEW SECTION. Sec. 17. Sections 8 through 16 of this act are
16 necessary for the immediate preservation of the public peace, health,
17 or safety, or support of the state government and its existing public
18 institutions, and shall take effect immediately."

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23 On page 1, line 1 of the title, after "services;" strike the
24 remainder of the title and insert "amending RCW 74.13.032, 74.13.035,
25 74.13.300, and 13.34.110; adding a new section to chapter 13.40 RCW;
26 adding new sections to chapter 74.13 RCW; adding new sections to
27 chapter 13.34 RCW; creating new sections; and declaring an emergency."