

CERTIFICATION OF ENROLLMENT

ENGROSSED HOUSE BILL 1173

54th Legislature
1995 Regular Session

Passed by the House April 23, 1995
Yeas 94 Nays 0

**Speaker of the
House of Representatives**

Passed by the Senate April 23, 1995
Yeas 45 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED HOUSE BILL 1173** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED HOUSE BILL 1173

AS RECOMMENDED BY THE CONFERENCE COMMITTEE

Passed Legislature - 1995 Regular Session

State of Washington 54th Legislature 1995 Regular Session

By Representatives Cooke and Brown; by request of Department of Social and Health Services

Read first time 01/16/95. Referred to Committee on Children & Family Services.

1 AN ACT Relating to adoption support; amending RCW 74.13.118,
2 74.13.121, 26.33.110, 26.33.310, and 26.33.260; adding a new section to
3 chapter 26.33 RCW; and creating new sections.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that it is in the best
6 interest of the people of the state of Washington to support the
7 adoption process in a variety of ways, including easing administrative
8 burdens on adoptive parents receiving financial support, providing
9 finality for adoptive placements and stable homes for children, and not
10 delaying adoptions.

11 **Sec. 2.** RCW 74.13.118 and 1985 c 7 s 138 are each amended to read
12 as follows:

13 At least (~~annually~~) once every five years, the secretary shall
14 review the need of any adoptive parent or parents receiving continuing
15 support pursuant to RCW 26.33.320 and 74.13.100 through 74.13.145, or
16 the need of any parent who is to receive more than one lump sum payment
17 where such payments are to be spaced more than one year apart. (~~Such~~

1 ~~review shall be made not later than the anniversary date of the~~
2 ~~adoption support agreement.)~~)

3 At the time of such (~~annual~~) review and at other times (~~during~~
4 ~~the year~~) when changed conditions, including variations in medical
5 opinions, prognosis and costs, are deemed by the secretary to warrant
6 such action, appropriate adjustments in payments shall be made based
7 upon changes in the needs of the child, in the adoptive parents'
8 income, resources, and expenses for the care of such child or other
9 members of the family, including medical and/or hospitalization expense
10 not otherwise covered by or subject to reimbursement from insurance or
11 other sources of financial assistance.

12 Any parent who is a party to such an agreement may at any time in
13 writing request, for reasons set forth in such request, a review of the
14 amount of any payment or the level of continuing payments. Such review
15 shall be begun not later than thirty days from the receipt of such
16 request. Any adjustment may be made retroactive to the date such
17 request was received by the secretary. If such request is not acted on
18 within thirty days after it has been received by the secretary, such
19 parent may invoke his rights under the hearing provisions set forth in
20 RCW 74.13.127.

21 **Sec. 3.** RCW 74.13.121 and 1985 c 7 s 139 are each amended to read
22 as follows:

23 So long as any adoptive parent is receiving support pursuant to RCW
24 26.33.320 and 74.13.100 through 74.13.145 he or she shall, (~~not later~~
25 ~~than two weeks after it is filed with the United States government~~)
26 upon request, file with the secretary a copy of his or her federal
27 income tax return. Such return and any information thereon shall be
28 marked by the secretary "confidential", shall be used by the secretary
29 solely for the purposes of RCW 26.33.320 and 74.13.100 through
30 74.13.145, and shall not be revealed to any other person, institution
31 or agency, public or private, including agencies of the United States
32 government, other than a superior court, judge or commissioner before
33 whom a petition for adoption of a child being supported or to be
34 supported pursuant to RCW 26.33.320 and 74.13.100 through 74.13.145 is
35 then pending.

36 In carrying on the review process authorized by RCW 26.33.320 and
37 74.13.100 through 74.13.145 the secretary may require the adoptive
38 parent or parents to disclose such additional financial information,

1 not privileged, as may enable him or her to make determinations and
2 adjustments in support to the end that the purposes and policies of
3 this state expressed in RCW 74.13.100 may be carried out, provided that
4 no adoptive parent or parents shall be obliged, by virtue of this
5 section, to sign any agreement or other writing waiving any
6 constitutional right or privilege nor to admit to his or her home any
7 agent, employee, or official of any department of this state, or of the
8 United States government.

9 Such information shall be marked "confidential" by the secretary,
10 shall be used by him or her solely for the purposes of RCW 26.33.320
11 and 74.13.100 through 74.13.145, and shall not be revealed to any other
12 person, institution, or agency, public or private, including agencies
13 of the United States government other than a superior court judge or
14 commission before whom a petition for adoption of a child being
15 supported or to be supported pursuant to RCW 26.33.320 and 74.13.100
16 through 74.13.145 is then pending.

17 NEW SECTION. **Sec. 4.** The legislature recognizes that some
18 prospective adoptive parents may not have finalized the adoption of a
19 foster child in their care because the adoption support program as it
20 is presently structured may offer special children with complex needs
21 fewer necessary services than the foster care program provides them
22 through exceptional cost plans. Enhancement of the adoption support
23 program could increase the likelihood that such special needs children
24 could be adopted.

25 The department of social and health services is directed to conduct
26 a study to determine the costs, program impact, and appropriateness of
27 extending exceptional cost rate foster care plans for special needs
28 children to the adoption support program. The department of social and
29 health services shall complete the study and report its findings to the
30 legislature no later than September 1, 1995.

31 **Sec. 5.** RCW 26.33.110 and 1987 c 170 s 5 are each amended to read
32 as follows:

33 (1) The court shall set a time and place for a hearing on the
34 petition for termination of the parent-child relationship, which shall
35 not be held sooner than forty-eight hours after the child's birth.
36 However, if the child is an Indian child, the hearing shall not be held
37 sooner than ten days after the child's birth and the time of the

1 hearing shall be extended up to twenty additional days from the date of
2 the scheduled hearing upon the motion of the parent, Indian custodian,
3 or the child's tribe.

4 (2) Notice of the hearing shall be served on the petitioner, the
5 nonconsenting parent or alleged father, the legal guardian of a party,
6 and the guardian ad litem of a party, in the manner prescribed by RCW
7 26.33.310. If the child is an Indian child, notice of the hearing
8 shall also be served on the child's tribe in the manner prescribed by
9 25 U.S.C. Sec. 1912(a).

10 (3) Except as otherwise provided in this section, the notice of the
11 petition shall:

12 (a) State the date and place of birth. If the petition is filed
13 prior to birth, the notice shall state the approximate date and
14 location of conception of the child and the expected date of birth, and
15 shall identify the mother;

16 (b) Inform the nonconsenting parent or alleged father that: (i) He
17 or she has a right to be represented by counsel and that counsel will
18 be appointed for an indigent person who requests counsel; and (ii)
19 failure to respond to the termination action within twenty days of
20 service if served within the state or thirty days if served outside of
21 this state, will result in the termination of his or her parent-child
22 relationship with respect to the child;

23 (c) Inform an alleged father that failure to file a claim of
24 paternity under chapter 26.26 RCW or to respond to the petition, within
25 twenty days of the date of service of the petition is grounds to
26 terminate his parent-child relationship with respect to the child;

27 (d) Inform an alleged father of an Indian child that if he
28 acknowledges paternity of the child or if his paternity of the child is
29 established prior to the termination of the parent-child relationship,
30 that his parental rights may not be terminated unless he: (i) Gives
31 valid consent to termination, or (ii) his parent-child relationship is
32 terminated involuntarily pursuant to chapter 26.33 or 13.34 RCW.

33 **Sec. 6.** RCW 26.33.310 and 1987 c 170 s 9 are each amended to read
34 as follows:

35 (1) Petitions governed by this chapter shall be served in the
36 ((same)) manner as ((a complaint in a civil action under)) set forth in
37 the superior court civil rules. Subsequent notice, papers, and

1 pleadings may be served in the manner provided in superior court civil
2 rules.

3 (2) If personal service on any parent or alleged father who has not
4 consented to the termination of his or her parental rights can be
5 given, the summons and notice of hearing on the petition to terminate
6 parental rights shall be served at least twenty days before the hearing
7 date if served within the state or thirty days if served outside of
8 this state.

9 (3) If personal service on the parent or any alleged father, either
10 within or without this state, cannot be given, notice shall be given:
11 (a) By first class and registered mail, mailed at least (~~twenty~~)
12 thirty days before the hearing to the person's last known address; and
13 (b) by publication at least once a week for three consecutive weeks
14 with the first publication date at least (~~twenty-five~~) thirty days
15 before the hearing. Publication shall be in a legal newspaper in the
16 city or town of the last known address within the United States and its
17 territories of the parent or alleged father, whether within or without
18 this state, or, if no address is known to the petitioner, publication
19 shall be in the city or town of the last known whereabouts within the
20 United States and its territories; or if no address or whereabouts are
21 known to the petitioner or the last known address is not within the
22 United States and its territories, in the city or town where the
23 proceeding has been commenced.

24 (~~(3)~~) (4) Notice and appearance may be waived by the department,
25 an agency, a parent, or an alleged father before the court or in a
26 writing signed under penalty of perjury. The waiver shall contain the
27 current address of the department, agency, parent, or alleged father.
28 The face of the waiver for a hearing on termination of the parent-child
29 relationship shall contain language explaining the meaning and
30 consequences of the waiver and the meaning and consequences of
31 termination of the parent-child relationship. A person or agency who
32 has executed a waiver shall not be required to appear except in the
33 case of an Indian child where consent to termination or adoption must
34 be certified before a court of competent jurisdiction pursuant to 25
35 U.S.C. Sec. 1913(a).

36 (~~(4)~~) (5) If a person entitled to notice is known to the
37 petitioner to be unable to read or understand English, all notices, if
38 practicable, shall be given in that person's native language or through
39 an interpreter.

1 (~~(5)~~) (6) Where notice to an Indian tribe is to be provided
2 pursuant to this chapter and the department is not a party to the
3 proceeding, notice shall be given to the tribe at least ten business
4 days prior to the hearing by registered mail return receipt requested.

5 **Sec. 7.** RCW 26.33.260 and 1984 c 155 s 26 are each amended to read
6 as follows:

7 (1) The entry of a decree of adoption divests any parent or alleged
8 father who is not married to the adoptive parent or who has not joined
9 in the petition for adoption of all legal rights and obligations in
10 respect to the adoptee, except past-due child support obligations. The
11 adoptee shall be free from all legal obligations of obedience and
12 maintenance in respect to the parent. The adoptee shall be, to all
13 intents and purposes, and for all legal incidents, the child, legal
14 heir, and lawful issue of the adoptive parent, entitled to all rights
15 and privileges, including the right of inheritance and the right to
16 take under testamentary disposition, and subject to all the obligations
17 of a natural child of the adoptive parent.

18 (2) Any appeal of an adoption decree shall be decided on an
19 accelerated review basis.

20 (3) Except as otherwise provided in RCW 26.33.160(3) and (4)(h), no
21 person may challenge an adoption decree on the grounds of:

22 (a) A person claiming or alleging paternity subsequently appears
23 and alleges lack of prior notice of the proceeding; or

24 (b) The adoption proceedings were in any other manner defective.

25 (4) It is the intent of the legislature that this section provide
26 finality for adoptive placements and stable homes for children.

27 NEW SECTION. **Sec. 8.** A new section is added to chapter 26.33 RCW
28 to read as follows:

29 An adoption shall not be delayed or denied on the basis of the
30 race, color, or national origin of the adoptive parent or the child
31 involved. However, when the department or an agency considers whether
32 a placement option is in a child's best interests, the department or
33 agency may consider the cultural, ethnic, or racial background of the
34 child and the capacity of prospective adoptive parents to meet the
35 needs of a child of this background. This provision shall not apply to

1 or affect the application of the Indian Child Welfare Act of 1978, 25
2 U.S.C. Sec. 1901 et seq.

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