
SUBSTITUTE HOUSE BILL 1849

State of Washington

55th Legislature

1997 Regular Session

By House Committee on Children & Family Services (originally sponsored by Representative Delvin)

Read first time 03/03/97.

1 AN ACT Relating to children with developmental disabilities;
2 amending RCW 13.34.030; adding new sections to chapter 71A.10 RCW;
3 creating a new section; providing an effective date; and declaring an
4 emergency.

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

6 NEW SECTION. **Sec. 1.** The legislature intends to consolidate all
7 services provided to children with developmental disabilities through
8 the department of social and health services in the division of
9 developmental disabilities. The legislature also intends to provide a
10 discrete, separate process for children with developmental disabilities
11 who require home-based or out-of-home care that complies with the
12 federal requirements for receipt of federal funds for services under
13 Title IV-B and Title IV-E of the social security act. The legislature
14 intends by this act to minimize the embarrassment and inconvenience of
15 children with developmental disabilities and their families caused by
16 complying with these federal requirements.

17 NEW SECTION. **Sec. 2.** A new section is added to chapter 71A.10 RCW
18 to read as follows:

1 As used in this chapter, "developmentally disabled dependent child"
2 is a child who has a developmental disability as defined in RCW
3 71A.10.020 and whose parent, guardian, or legal custodian and with the
4 department mutually agree that services appropriate to the child's
5 needs can not be provided in the home.

6 NEW SECTION. **Sec. 3.** A new section is added to chapter 71A.10 RCW
7 to read as follows:

8 It is the intent of the legislature that parents are responsible
9 for the care and support of children with developmental disabilities.
10 The legislature recognizes that, because of the intense support
11 required to care for a child with developmental disabilities, the help
12 of an out-of-home placement may be needed. It is the intent of the
13 legislature that, when the sole reason for the out-of-home placement is
14 the child's developmental disability, such services be offered by the
15 department to these children and their families through a voluntary
16 placement agreement. In these cases, the parents shall retain legal
17 custody of the child.

18 As used in this section, "voluntary placement agreement" means a
19 written agreement between the department and a child's legal guardian
20 authorizing the department to place the child in a licensed facility.
21 Under the terms of this agreement, the parent or legal guardian shall
22 retain legal custody and the department shall be responsible for the
23 child's placement and care. The agreement shall at a minimum specify
24 the legal status of the child and the rights and obligations of the
25 parent or legal guardian, the child, and the department while the child
26 is in placement. The agreement must be signed by the child's parent
27 and the department to be in effect.

28 As used in this section, "out-of-home placement" means the
29 placement of a child in a facility licensed to care for children with
30 developmental disabilities on a twenty-four hour basis.

31 Whenever the department places a child in out-of-home care under a
32 voluntary placement pursuant to this section, the department shall have
33 the responsibility for the child's placement and care. When a child
34 remains in out-of-home care under a voluntary agreement for more than
35 one hundred eighty days, the juvenile court shall make a judicial
36 determination, within the first one hundred eighty days of the
37 placement, that the placement is in the best interests of the child.
38 In addition, the juvenile court shall hold a permanency planning

1 hearing as specified in RCW 13.34.145 and thereafter as specified in
2 federal law during the continuation of the placement. The permanency
3 planning hearings shall review whether the child's best interests are
4 served by continued out-of-home placement and determine the future
5 status of the child.

6 The department shall provide for foster care citizen reviews or
7 administrative reviews as required by federal law. A review may be
8 called at any time by either the department or the parent.

9 The court may appoint a guardian ad litem if the court finds an
10 independent investigation is needed to examine the best interests of
11 the child.

12 Nothing in this section shall prevent the department from filing a
13 dependency petition if the child is abused or neglected or the parents
14 discontinue contact with the child.

15 The department shall adopt rules providing for the implementation
16 of this act and the transfer of responsibility for out-of-home
17 placements from the dependency process under chapter 13.34 RCW to the
18 process under chapter 71A.10 RCW.

19 NEW SECTION. **Sec. 4.** Section 3 of this act is necessary for the
20 immediate preservation of the public peace, health, or safety, or
21 support of the state government and its existing public institutions,
22 and takes effect immediately.

23 NEW SECTION. **Sec. 5.** A new section is added to chapter 71A.10 RCW
24 to read as follows:

25 The department shall consolidate all services provided through the
26 department to children with developmental disabilities in the division
27 of developmental disabilities. The department shall provide for an
28 orderly transfer of staff, equipment, and related responsibilities from
29 the division of children and family services to the division of
30 developmental disabilities. The division of developmental disabilities
31 shall assume responsibilities for children with developmental
32 disabilities under this section no later than March 1, 1998. Any
33 disputes between the division of children and family services and the
34 division of developmental disabilities regarding the transfer of
35 responsibilities under this section shall be resolved by the secretary
36 of the department of social and health services.

1 **Sec. 6.** RCW 13.34.030 and 1995 c 311 s 23 are each amended to read
2 as follows:

3 For purposes of this chapter:

4 (1) "Child" and "juvenile" means any individual under the age of
5 eighteen years.

6 (2) "Current placement episode" means the period of time that
7 begins with the most recent date that the child was removed from the
8 home of the parent, guardian, or legal custodian for purposes of
9 placement in out-of-home care and continues until the child returns
10 home, an adoption decree or guardianship order is entered, or the
11 dependency is dismissed, whichever occurs soonest. If the most recent
12 date of removal occurred prior to the filing of a dependency petition
13 under this chapter or after filing but prior to entry of a disposition
14 order, such time periods shall be included when calculating the length
15 of a child's current placement episode.

16 (3) "Dependency guardian" means the person, nonprofit corporation,
17 or Indian tribe appointed by the court pursuant to RCW 13.34.232 for
18 the limited purpose of assisting the court in the supervision of the
19 dependency.

20 (4) "Dependent child" means any child:

21 (a) Who has been abandoned; that is, where the child's parent,
22 guardian, or other custodian has expressed either by statement or
23 conduct, an intent to forego, for an extended period, parental rights
24 or parental responsibilities despite an ability to do so. If the court
25 finds that the petitioner has exercised due diligence in attempting to
26 locate the parent, no contact between the child and the child's parent,
27 guardian, or other custodian for a period of three months creates a
28 rebuttable presumption of abandonment, even if there is no expressed
29 intent to abandon;

30 (b) Who is abused or neglected as defined in chapter 26.44 RCW by
31 a person legally responsible for the care of the child; or

32 (c) Who has no parent, guardian, or custodian capable of adequately
33 caring for the child, such that the child is in circumstances which
34 constitute a danger of substantial damage to the child's psychological
35 or physical development(~~(; or~~

36 ~~(d) Who has a developmental disability, as defined in RCW~~
37 ~~71A.10.020 and whose parent, guardian, or legal custodian together with~~
38 ~~the department determines that services appropriate to the child's~~
39 ~~needs can not be provided in the home. However, (a), (b), and (c) of~~

1 ~~this subsection may still be applied if other reasons for removal of~~
2 ~~the child from the home exist))~~.

3 (5) "Guardian" means the person or agency that: (a) Has been
4 appointed as the guardian of a child in a legal proceeding other than
5 a proceeding under this chapter; and (b) has the legal right to custody
6 of the child pursuant to such appointment. The term "guardian" shall
7 not include a "dependency guardian" appointed pursuant to a proceeding
8 under this chapter.

9 (6) "Guardian ad litem" means a person, appointed by the court to
10 represent the best interest of a child in a proceeding under this
11 chapter, or in any matter which may be consolidated with a proceeding
12 under this chapter. A "court-appointed special advocate" appointed by
13 the court to be the guardian ad litem for the child, or to perform
14 substantially the same duties and functions as a guardian ad litem,
15 shall be deemed to be guardian ad litem for all purposes and uses of
16 this chapter.

17 (7) "Guardian ad litem program" means a court-authorized volunteer
18 program, which is or may be established by the superior court of the
19 county in which such proceeding is filed, to manage all aspects of
20 volunteer guardian ad litem representation for children alleged or
21 found to be dependent. Such management shall include but is not
22 limited to: Recruitment, screening, training, supervision, assignment,
23 and discharge of volunteers.

24 (8) "Out-of-home care" means placement in a foster family home or
25 group care facility licensed pursuant to chapter 74.15 RCW or placement
26 in a home, other than that of the child's parent, guardian, or legal
27 custodian, not required to be licensed pursuant to chapter 74.15 RCW.

28 (9) "Preventive services" means preservation services, as defined
29 in chapter 74.14C RCW, and other reasonably available services capable
30 of preventing the need for out-of-home placement while protecting the
31 child.

32 NEW SECTION. **Sec. 7.** Sections 1, 2, 5, and 6 of this act are
33 necessary for the immediate preservation of the public peace, health,
34 or safety, or support of the state government and its existing public
35 institutions, and takes effect July 1, 1997.

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