

SHB 2554 - H AMD

By Representative Dickerson

1 Strike everything after the enacting clause and insert the
2 following:

3 **"Sec. 1.** RCW 13.34.160 and 1997 c 58 s 505 are each amended to
4 read as follows:

5 (1) In an action brought under this chapter, the court may
6 inquire into the ability of the parent or parents of the child to
7 pay child support and may enter an order of child support as set
8 forth in chapter 26.19 RCW. The court may enforce the same by
9 execution, or in any way in which a court of equity may enforce its
10 decrees. All child support orders entered pursuant to this chapter
11 shall be in compliance with the provisions of RCW 26.23.050.

12 (2) For purposes of this section, if a dependent child's parent
13 is an unmarried minor parent or pregnant minor applicant, then the
14 parent or parents of the minor shall also be deemed a parent or
15 parents of the dependent child. However, liability for child
16 support under this subsection only exists if the parent or parents
17 of the unmarried minor parent or pregnant minor applicant are
18 provided the opportunity for a hearing on their ability to provide
19 support. Any child support order requiring such a parent or
20 parents to provide support for the minor parent's child may be
21 effective only until the minor parent reaches eighteen years of
22 age.

23 (3) In the absence of a court order setting support, the
24 department may establish an administrative order for support upon
25 receipt of a referral or application for support enforcement
26 services.

27 **Sec. 2.** RCW 13.34.270 and 2000 c 122 s 33 are each amended to
28 read as follows:

29 (1) Whenever the department places a child with a developmental
30 disability in out-of-home care pursuant to RCW 74.13.350, the
31 department shall obtain a judicial determination within one hundred

1 eighty days of the placement that continued placement is in the
2 best interests of the child. If the child's out-of-home placement
3 ends before one hundred eighty days have elapsed, no judicial
4 determination is required.

5 (2) To obtain the judicial determination, the department shall
6 file a petition alleging that there is located or residing within
7 the county a child who has a developmental disability and that the
8 child has been placed in out-of-home care pursuant to RCW
9 74.13.350. The petition shall request that the court review the
10 child's placement, make a determination whether continued placement
11 is in the best interests of the child, and take other necessary
12 action as provided in this section. The petition shall contain the
13 name, date of birth, and residence of the child and the names and
14 residences of the child's parent or legal guardian who has agreed
15 to the child's placement in out-of-home care. Reasonable attempts
16 shall be made by the department to ascertain and set forth in the
17 petition the identity, location, and custodial status of any parent
18 who is not a party to the placement agreement and why that parent
19 cannot assume custody of the child.

20 (3) Upon filing of the petition, the clerk of the court shall
21 schedule the petition for a hearing to be held no later than
22 fourteen calendar days after the petition has been filed. The
23 department shall provide notification of the time, date, and
24 purpose of the hearing to the parent or legal guardian who has
25 agreed to the child's placement in out-of-home care. The
26 department shall also make reasonable attempts to notify any parent
27 who is not a party to the placement agreement, if the parent's
28 identity and location is known. Notification under this section
29 may be given by the most expedient means, including but not limited
30 to, mail, personal service, and telephone.

31 (4) The court shall appoint a guardian ad litem for the child
32 as provided in RCW 13.34.100, unless the court for good cause finds
33 the appointment unnecessary.

34 (5) Permanency planning hearings shall be held as provided in
35 this section. At the hearing, the court shall review whether the
36 child's best interests are served by continued out-of-home
37 placement and determine the future legal status of the child.

38 (a) For children age ten and under, a permanency planning
39 hearing shall be held in all cases where the child has remained in

1 out-of-home care for at least nine months and an adoption decree or
2 guardianship order under chapter 11.88 RCW has not previously been
3 entered. The hearing shall take place no later than twelve months
4 following commencement of the child's current placement episode.

5 (b) For children over age ten, a permanency planning hearing
6 shall be held in all cases where the child has remained in out-of-
7 home care for at least fifteen months and an adoption decree or
8 guardianship order under chapter 11.88 RCW has not previously been
9 entered. The hearing shall take place no later than eighteen
10 months following commencement of the current placement episode.

11 (c) No later than ten working days before the permanency
12 planning hearing, the department shall submit a written permanency
13 plan to the court and shall mail a copy of the plan to all parties.
14 The plan shall be directed toward securing a safe, stable, and
15 permanent home for the child as soon as possible. The plan shall
16 identify one of the following outcomes as the primary goal and may
17 also identify additional outcomes as alternative goals: Return of
18 the child to the home of the child's parent or legal guardian;
19 adoption; guardianship; or long-term out-of-home care, until the
20 child is age eighteen, with a written agreement between the parties
21 and the child's care provider.

22 (d) If a goal of long-term out-of-home care has been achieved
23 before the permanency planning hearing, the court shall review the
24 child's status to determine whether the placement and the plan for
25 the child's care remains appropriate. In cases where the primary
26 permanency planning goal has not been achieved, the court shall
27 inquire regarding the reasons why the primary goal has not been
28 achieved and determine what needs to be done to make it possible to
29 achieve the primary goal.

30 (e) Following the first permanency planning hearing, the court
31 shall hold a further permanency planning hearing in accordance with
32 this section at least once every twelve months until a permanency
33 planning goal is achieved or the voluntary placement agreement is
34 terminated.

35 (6) Any party to the voluntary placement agreement may
36 terminate the agreement at any time. Upon termination of the
37 agreement, the child shall be returned to the care of the child's
38 parent or legal guardian, unless the child has been taken into
39 custody pursuant to RCW 13.34.050 or 26.44.050, placed in shelter

1 care pursuant to RCW 13.34.060, or placed in foster care pursuant
2 to RCW 13.34.130. The department shall notify the court upon
3 termination of the voluntary placement agreement and return of the
4 child to the care of the child's parent or legal guardian.
5 Whenever a voluntary placement agreement is terminated, an action
6 under this section shall be dismissed.

7 (7) When state or federal funds are expended for the care and
8 maintenance of a child with a developmental disability, placed in
9 care as a result of an action under this chapter, the department
10 shall refer the case to the division of child support, unless the
11 department finds that there is good cause not to pursue collection
12 of child support against the parent or parents of the child.

13 (8) This section does not prevent the department from filing a
14 dependency petition if there is reason to believe that the child is
15 a dependent child as defined in RCW 13.34.030. An action filed
16 under this section shall be dismissed upon the filing of a
17 dependency petition regarding a child who is the subject of the
18 action under this section.

19 **Sec. 3.** RCW 74.13.031 and 2001 c 192 s 1 are each amended to
20 read as follows:

21 The department shall have the duty to provide child welfare
22 services and shall:

23 (1) Develop, administer, supervise, and monitor a coordinated
24 and comprehensive plan that establishes, aids, and strengthens
25 services for the protection and care of runaway, dependent, or
26 neglected children.

27 (2) Within available resources, recruit an adequate number of
28 prospective adoptive and foster homes, both regular and
29 specialized, i.e. homes for children of ethnic minority, including
30 Indian homes for Indian children, sibling groups, handicapped and
31 emotionally disturbed, teens, pregnant and parenting teens, and
32 annually report to the governor and the legislature concerning the
33 department's success in: (a) Meeting the need for adoptive and
34 foster home placements; (b) reducing the foster parent turnover
35 rate; (c) completing home studies for legally free children; and
36 (d) implementing and operating the passport program required by RCW
37 74.13.285. The report shall include a section entitled "Foster
38 Home Turn-Over, Causes and Recommendations."

1 (3) Investigate complaints of any recent act or failure to act
2 on the part of a parent or caretaker that results in death, serious
3 physical or emotional harm, or sexual abuse or exploitation, or
4 that presents an imminent risk of serious harm, and on the basis of
5 the findings of such investigation, offer child welfare services in
6 relation to the problem to such parents, legal custodians, or
7 persons serving in loco parentis, and/or bring the situation to the
8 attention of an appropriate court, or another community agency:
9 PROVIDED, That an investigation is not required of nonaccidental
10 injuries which are clearly not the result of a lack of care or
11 supervision by the child's parents, legal custodians, or persons
12 serving in loco parentis. If the investigation reveals that a
13 crime against a child may have been committed, the department shall
14 notify the appropriate law enforcement agency.

15 (4) Offer, on a voluntary basis, family reconciliation services
16 to families who are in conflict.

17 (5) Monitor out-of-home placements, on a timely and routine
18 basis, to assure the safety, well-being, and quality of care being
19 provided is within the scope of the intent of the legislature as
20 defined in RCW 74.13.010 and 74.15.010, and annually submit a
21 report measuring the extent to which the department achieved the
22 specified goals to the governor and the legislature.

23 (6) Have authority to accept custody of children from parents
24 and to accept custody of children from juvenile courts, where
25 authorized to do so under law, to provide child welfare services
26 including placement for adoption, and to provide for the physical
27 care of such children and make payment of maintenance costs if
28 needed. Except where required by Public Law 95-608 (25 U.S.C. Sec.
29 1915), no private adoption agency which receives children for
30 adoption from the department shall discriminate on the basis of
31 race, creed, or color when considering applications in their
32 placement for adoption.

33 (7) Have authority to provide temporary shelter to children who
34 have run away from home and who are admitted to crisis residential
35 centers.

36 (8) Have authority to purchase care for children; and shall
37 follow in general the policy of using properly approved private
38 agency services for the actual care and supervision of such
39 children insofar as they are available, paying for care of such

1 children as are accepted by the department as eligible for support
2 at reasonable rates established by the department.

3 (9) Establish a children's services advisory committee which
4 shall assist the secretary in the development of a partnership plan
5 for utilizing resources of the public and private sectors, and
6 advise on all matters pertaining to child welfare, licensing of
7 child care agencies, adoption, and services related thereto. At
8 least one member shall represent the adoption community.

9 (10) Have authority to provide continued foster care or group
10 care for individuals from eighteen through twenty years of age to
11 enable them to complete their high school or vocational school
12 program.

13 (11) Refer cases to the division of child support whenever
14 state or federal funds are expended for the care and maintenance of
15 a child, including a child with a developmental disability who is
16 placed as a result of an action under chapter 13.34 RCW, unless the
17 department finds that there is good cause not to pursue collection
18 of child support against the parent or parents of the child.

19 (12) Have authority within funds appropriated for foster care
20 services to purchase care for Indian children who are in the
21 custody of a federally recognized Indian tribe or tribally licensed
22 child-placing agency pursuant to parental consent, tribal court
23 order, or state juvenile court order; and the purchase of such care
24 shall be subject to the same eligibility standards and rates of
25 support applicable to other children for whom the department
26 purchases care.

27 Notwithstanding any other provision of RCW 13.32A.170 through
28 13.32A.200 and 74.13.032 through 74.13.036, or of this section all
29 services to be provided by the department of social and health
30 services under subsections (4), (6), and (7) of this section,
31 subject to the limitations of these subsections, may be provided by
32 any program offering such services funded pursuant to Titles II and
33 III of the federal juvenile justice and delinquency prevention act
34 of 1974.

35 (~~(+12)~~) (13) Within amounts appropriated for this specific
36 purpose, provide preventive services to families with children that
37 prevent or shorten the duration of an out-of-home placement.

1 (~~(13)~~) (14) Have authority to provide independent living
2 services to youths, including individuals eighteen through twenty
3 years of age, who are or have been in foster care.

4 **Sec. 4.** RCW 74.13.350 and 1998 c 229 s 1 are each amended to
5 read as follows:

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

16 As used in this section, "voluntary placement agreement" means
17 a written agreement between the department and a child's parent or
18 legal guardian authorizing the department to place the child in a
19 licensed facility. Under the terms of this agreement, the parent
20 or legal guardian shall retain legal custody and the department
21 shall be responsible for the child's placement and care. The
22 agreement shall at a minimum specify the legal status of the child
23 and the rights and obligations of the parent or legal guardian, the
24 child, and the department while the child is in placement. The
25 agreement must be signed by the child's parent or legal guardian
26 and the department to be in effect, except that an agreement
27 regarding an Indian child shall not be valid unless executed in
28 writing before the court and filed with the court as provided in
29 RCW 13.34.245. Any party to a voluntary placement agreement may
30 terminate the agreement at any time. Upon termination of the
31 agreement, the child shall be returned to the care of the child's
32 parent or legal guardian unless the child has been taken into
33 custody pursuant to RCW 13.34.050 or 26.44.050, placed in shelter
34 care pursuant to RCW 13.34.060, or placed in foster care pursuant
35 to RCW 13.34.130.

36 As used in this section, "out-of-home placement" and "out-of-
37 home care" mean the placement of a child in a foster family home or
38 group care facility licensed under chapter 74.15 RCW.

1 Whenever the department places a child in out-of-home care
2 under a voluntary placement pursuant to this section, the
3 department shall have the responsibility for the child's placement
4 and care. The department shall develop a permanency plan of care
5 for the child no later than sixty days from the date that the
6 department assumes responsibility for the child's placement and
7 care. Within the first one hundred eighty days of the placement,
8 the department shall obtain a judicial determination pursuant to
9 RCW 13.04.030(1)(j) and 13.34.270 that the placement is in the best
10 interests of the child. If the child's out-of-home placement ends
11 before one hundred eighty days have elapsed, no judicial
12 determination under RCW 13.04.030(1)(b) is required. The
13 permanency planning hearings shall review whether the child's best
14 interests are served by continued out-of-home placement and
15 determine the future legal status of the child.

16 The department shall provide for periodic administrative
17 reviews as required by federal law. A review may be called at any
18 time by either the department, the parent, or the legal guardian.

19 Nothing in this section shall prevent the department from
20 filing a dependency petition if there is reason to believe that the
21 child is a dependent child as defined in RCW 13.34.030.

22 The department shall adopt rules providing for the
23 implementation of chapter 386, Laws of 1997 and the transfer of
24 responsibility for out-of-home placements from the dependency
25 process under chapter 13.34 RCW to the process under this chapter.

26 It is the intent of the legislature that the department
27 undertake voluntary out-of-home placement in cases where the
28 child's developmental disability is such that the parent, guardian,
29 or legal custodian is unable to provide the necessary care for the
30 child, and the parent, guardian, or legal custodian has determined
31 that the child would benefit from placement outside of the home.
32 If the department does not accept a voluntary placement agreement
33 signed by the parent, a petition may be filed and an action pursued
34 under chapter 13.34 RCW. The department shall inform the parent,
35 guardian, or legal custodian in writing of their right to civil
36 action under chapter 13.34 RCW.

37 Nothing in this section prohibits the department from seeking
38 support from parents of a child, including a child with a
39 developmental disability if the child has been placed into care as

1 a result of an action under chapter 13.34 RCW, when state or
2 federal funds are expended for the care and maintenance of that
3 child or when the department receives an application for services
4 from the physical custodian of the child, unless the department
5 finds that there is good cause not to pursue collection of child
6 support against the parent or parents.

7 **Sec. 5.** RCW 74.20A.030 and 2000 c 86 s 7 are each amended to
8 read as follows:

9 (1) The department shall be subrogated to the right of any
10 dependent child or children or person having the care, custody, and
11 control of said child or children, if public assistance money is
12 paid to or for the benefit of the child, or for the care and
13 maintenance of a child, including a child with a developmental
14 disability if the child has been placed into care as a result of an
15 action under 13.34 RCW, under a state-funded program, or a program
16 funded under Title IV-A or IV-E of the federal social security act
17 as amended by the personal responsibility and work opportunity
18 reconciliation act of 1996, to prosecute or maintain any support
19 action or execute any administrative remedy existing under the laws
20 of the state of Washington to obtain reimbursement of moneys
21 expended, based on the support obligation of the responsible parent
22 established by a child support order. Distribution of any support
23 moneys shall be made in accordance with RCW 26.23.035.

24 (2) The department may initiate, continue, maintain, or execute
25 an action to establish, enforce, and collect a support obligation,
26 including establishing paternity and performing related services,
27 under this chapter and chapter 74.20 RCW, or through the attorney
28 general or prosecuting attorney under chapter 26.09, 26.18, 26.20,
29 26.21, 26.23, or 26.26 RCW or other appropriate statutes or the
30 common law of this state, for so long as and under such conditions
31 as the department may establish by regulation.

32 (3) Public assistance moneys shall be exempt from collection
33 action under this chapter except as provided in RCW 74.20A.270.

34 ~~(4) ((No collection action shall be taken against parents of~~
35 ~~children eligible for admission to, or children who have been~~
36 ~~discharged from a residential habilitation center as defined by RCW~~
37 ~~71A.10.020(8). For the period July 1, 1993, through June 30, 1995,~~
38 ~~a collection action may be taken against parents of children with~~

1 ~~developmental disabilities who are placed in community-based~~
2 ~~residential care. The amount of support the department may collect~~
3 ~~from the parents shall not exceed one-half of the parents' support~~
4 ~~obligation accrued while the child was in community-based~~
5 ~~residential care.))~~ The child support obligation shall be
6 calculated pursuant to chapter 26.19 RCW.

7 NEW SECTION. **Sec. 6.** This act takes effect July 1, 2004."

EFFECT: Removes the requirement for the Department of Social and Health Services to collect child support when state or federal funds are expended for a child with developmental disabilities unless the child is placed into care as a result of a dependency and termination of parental rights action.