

SSB 5474 - H COMM AMD

By Committee on Children & Family Services

ADOPTED 04/09/2003

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

3 "NEW SECTION. **Sec. 1.** It is the intent of the legislature to  
4 assist children in the care of kin to access appropriate medical and  
5 education services. Children being raised by kin have faced barriers  
6 to medical care and school attendance because their kinship caregivers  
7 have not been able to verify that they are the identified primary  
8 caregivers of these children. Such barriers pose an especially  
9 significant challenge to kinship caregivers in dealing with school  
10 officials and health professionals when children are left in their care  
11 with little warning. To assist kinship caregivers in executing  
12 adequate and appropriate decisions regarding the educational and  
13 medical needs of a child in their care, a kinship caregiver's  
14 authorization affidavit is hereby created.

15 NEW SECTION. **Sec. 2.** A new section is added to chapter 74.13 RCW  
16 to read as follows:

17 Unless the context clearly requires otherwise, the definitions in  
18 this section apply throughout sections 2 through 5 of this act.

19 (1) "Kinship caregiver" means a person eighteen years of age or  
20 older who provides kinship care services to a child who resides with  
21 the caregiver and to whom the child is related by blood, adoption,  
22 marriage, or former marriage, including a brother, sister, stepbrother,  
23 stepsister, half-brother, half-sister, uncle, aunt, niece, nephew,  
24 first cousin, or any person denoted by the prefix "grand" or "great."

25 (2) "Kinship care services" means parent-like services and support  
26 provided to a child by a kinship caregiver.

27 (3) For a child defined as an "Indian child" under the federal  
28 Indian child welfare act, 25 U.S.C. Sec. 1901 et seq., the definition

1 of "extended family member" under the federal Indian child welfare act  
2 shall apply.

3 NEW SECTION. **Sec. 3.** A new section is added to chapter 74.13 RCW  
4 to read as follows:

5 (1) A kinship caregiver who completes items 1 through 10 of the  
6 affidavit provided in section 5 of this act and signs the affidavit is  
7 authorized to enroll a child in school and consent to school-related  
8 medical care on behalf of the child in his or her care.

9 (2) A kinship caregiver who completes item 11 of the affidavit  
10 provided in section 5 of this act and signs the affidavit is authorized  
11 to consent, on behalf of the child in his or her care, to dental care  
12 and such medical care as necessary to preserve the life or health of  
13 the child.

14 (3) The affidavit shall not be valid if a kinship caregiver is  
15 unlawfully harboring a minor, pursuant to RCW 13.32A.080.

16 (4) The affidavit shall be in effect for twelve months after the  
17 date on which it is executed, and renewable every twelve months  
18 thereafter.

19 (5) The authority of a kinship caregiver to consent to or to refuse  
20 medical or dental care for a child is subordinate to any decision of  
21 the parent or other person having legal custody of the child, provided  
22 the decision of the parent or other person having legal custody of the  
23 child does not jeopardize the life, health, or safety of the child.

24 NEW SECTION. **Sec. 4.** A new section is added to chapter 74.13 RCW  
25 to read as follows:

26 (1) A person who acts in good faith reliance on a kinship  
27 caregiver's authorization affidavit, provided in section 5 of this act,  
28 to provide education services or medical or dental care, without actual  
29 knowledge of facts contrary to those stated on the affidavit, is not  
30 subject to criminal liability or to civil liability to any person, and  
31 is not subject to professional disciplinary action, for such good faith  
32 reliance if the applicable portions of the affidavit are completed.  
33 This section applies even if education services or medical or dental  
34 care are provided to a child in contravention of the wishes of the  
35 parent or other person having legal custody of the child as long as the

1 person providing the education services or medical or dental care has  
2 no actual knowledge of the wishes of the parent or other person having  
3 legal custody of the child.

4 (2) A person who relies on the affidavit has no obligation to make  
5 any further inquiry or investigation.

6 (3) Nothing in this section relieves any person from liability for  
7 violations of other provisions of law.

8 (4) If the child ceases to reside with the kinship caregiver, the  
9 kinship caregiver shall notify within three days, excluding weekends  
10 and holidays, any and every school, health care provider, carrier, or  
11 other person or entity to whom the kinship caregiver has provided the  
12 affidavit that the child no longer resides with the caregiver. No  
13 further consent to school enrollment or medical care shall be given by  
14 the former kinship caregiver once the child ceases to reside with the  
15 former caregiver.

16 NEW SECTION. **Sec. 5.** A new section is added to chapter 74.13 RCW  
17 to read as follows:

18 The kinship caregiver's authorization affidavit must be in  
19 substantially the following form:

20 Kinship Caregiver's Authorization Affidavit

21 Use of this affidavit is authorized by RCW 74.13.--- (section 3 of  
22 this act).

23 Instructions: Completion of items 1 through 10 and the signing of  
24 the affidavit is required in order to authorize enrollment of a child  
25 in school and authorize school-related medical care. Completion of  
26 item 11 is required to authorize any other medical care. Completion of  
27 Section A and Section B, C, D, or E, as applicable, is additionally  
28 required for the affidavit to be valid. Print clearly.

29 The child named below resides with me and I am eighteen years of  
30 age or older.

- 31 1. Name of child:
- 32 2. Child's birth date:
- 33 3. My name (adult executing this document):
- 34 4. My home address:
- 35 5. My telephone numbers:

1           6. My date of birth:  
2           7. My driver's license or state identification card number:  
3           8. I do not have a driver's license or state identification card  
4 number, and instead offer the following government-issued  
5 identification:

6           . . . . .  
7 (Document and number)

8           9. ( ) I am the kinship caregiver for the child named in this form  
9 (check the box at the beginning of this item). My relationship to  
10 the child is . . . . .

11          10. Check one or both of the following (for example if one parent  
12 can be located and the other cannot):

13          ( ) I have advised the parent(s) or other person(s) having legal  
14 custody of the child of my intent to enroll the child in school and  
15 to consent to school-related medical care. The parent(s) or legal  
16 custodian(s) did not object to my assumption of this authority.

17          Name/address of parent(s) or legal custodian(s) who were notified:  
18           . . . . .  
19           . . . . .

20          Date of notification: . . . . .

21          ( ) I was unable to contact the parent(s) or other person(s) having  
22 legal custody of the child to notify them of my intent to assume  
23 this authority to enroll the child in school and consent to school-  
24 based medical care.

25          11. Check one or both of the following (for example if one parent  
26 can be located and the other cannot):

27          ( ) I have advised the parent(s) or other person(s) having legal  
28 custody of the child of my intent to consent to medical care for  
29 the child. The parent(s) or legal custodian(s) did not object to  
30 my assumption of this authority.

31          Name/address of parent(s) or legal custodian(s) who were notified:  
32           . . . . .  
33           . . . . .

34          Date of notification: . . . . .

35          ( ) I was unable to contact the parent(s) or other person(s) having  
36 legal custody of the child to notify them of my intent to assume  
37 this authority to consent to medical care.

1 TO THE KINSHIP CAREGIVER:

2 If the parent(s) or legal custodian(s) cannot be located pursuant  
3 to item 10 or item 11 of this form, you must complete Section A below  
4 as proof of your efforts to reach the parent(s) or legal custodian(s).  
5 In addition, you must also complete one of the following: Section B,  
6 C, D, or E. It is required that you provide the information and  
7 complete the described action applicable to the appropriate sections.

8 Required Section A:

9 A. ( ) I have sent a certified letter/notice to the parent(s) or  
10 legal custodian(s) of the child at their last known address. This  
11 letter/notice informed the parent(s) or legal custodian(s) that I  
12 intend to act as a caregiver and take educational or medical  
13 responsibility for the child. That letter/notice is attached along  
14 with the certified mail receipt documenting that the letter was not  
15 deliverable because the parent(s) or legal custodian(s) of the child  
16 was not at this location.

17 Required Section B, C, D, or E (mark at least one of the  
18 following):

19 B. ( ) I, or a person acting on my behalf, (name) . . . . .  
20 visited the last known address of the parent(s) or legal custodian(s).

21 Describe what was found at that visit. Include the following: The  
22 name of the person spoken to; that person's relationship to the  
23 parent(s) or legal custodian(s); what that person said; and any other  
24 related information that clarifies the situation.

25 . . . . .  
26 . . . . .  
27 . . . . .  
28 . . . . .

29 OR

30 C. ( ) I, or a person acting on my behalf, (name) . . . . .  
31 attempted to determine the location of the parent(s) or legal  
32 custodian(s) by contacting their places of employment, health care  
33 providers, or friends.

34 Describe the results of your inquiry. Include the following: The  
35 name of the employers, health care providers, or friends; and those  
36 individuals' responses to your request for the location of the  
37 parent(s) or legal custodian(s).

1 . . . . .  
2 . . . . .  
3 . . . . .

4 OR

5 D. ( ) I placed a notice in a newspaper informing the parent(s) or  
6 legal custodian(s) of (child's name) . . . . .  
7 that I intend to take educational or medical responsibility for the  
8 child.

9 Eight days after publication, describe the results of the notice.  
10 Include the response that you received or the lack of response. Attach  
11 a copy of the notice, being sure to include a portion of the newspaper  
12 with the date that the notice was printed.

13 . . . . .  
14 . . . . .  
15 . . . . .

16 OR

17 E. ( ) I am attaching documents or confirmations that show that the  
18 parent(s) or legal custodian(s) cannot be found.

19 Attach any supporting documents.

20 . . . . .  
21 . . . . .  
22 . . . . .

23 \_\_\_\_\_  
24 \*\*Warning: Signing this form if any of the statements above are  
25 incorrect may subject you to criminal or civil liability or both.\*\*  
26 \_\_\_\_\_

27 I declare under penalty of perjury under the laws of the State of  
28 Washington that the foregoing is true and correct.

29 Dated: . . . . . Signed: . . . . .

30 Notices:

31 1. This declaration does not affect the rights of the child's  
32 parents or legal guardian regarding the care, custody, and control of  
33 the child, and does not mean that the kinship caregiver has legal  
34 custody of the child.

35 2. A person who relies on this affidavit has no obligation to make  
36 any further inquiry or investigation.

1           3. The authority of the kinship caregiver executing this affidavit  
2 to consent to school enrollment or medical care shall expire not later  
3 than twelve months after the date on which it is executed.

4           Additional Information:

5           TO KINSHIP CAREGIVERS:

6           1. "Kinship caregiver" means a person eighteen years of age or  
7 older who provides kinship care services to a child who resides with  
8 the caregiver and to whom the caregiver is related by blood, adoption,  
9 marriage, or former marriage, including a brother, sister, stepbrother,  
10 stepsister, half-brother, half-sister, uncle, aunt, niece, nephew,  
11 first cousin, or any person denoted by the prefix "grand" or "great."

12           2. If the child ceases to reside with you, you are required to  
13 notify within three days, excluding weekends and holidays, every  
14 school, health care provider, carrier, or other person or entity to  
15 whom you have provided the affidavit.

16           3. Once the child ceases to reside with you, your authority to  
17 consent to school enrollment or medical care ends immediately and you  
18 are no longer allowed to make decisions on those matters.

19           4. It is a gross misdemeanor under RCW 13.32A.080 to unlawfully  
20 harbor a minor.

21           TO SCHOOL OFFICIALS:

22           1. This affidavit constitutes a sufficient basis for a  
23 determination of residency of the child, without the requirement of a  
24 guardianship or other custody order, unless the school district  
25 determines from actual facts that the child is not residing with the  
26 kinship caregiver.

27           2. The school district may require additional reasonable evidence  
28 that the kinship caregiver resides at the address stated in the  
29 affidavit.

30           TO HEALTH CARE PROVIDERS AND CARRIERS:

31           1. A person who acts in good faith reliance on a kinship  
32 caregiver's authorization affidavit to provide medical or dental care,  
33 without actual knowledge of facts contrary to those stated on the  
34 affidavit, is not subject to criminal liability or to civil liability  
35 to any person, and is not subject to professional disciplinary action,

1 for such reliance if the applicable portions of the affidavit are  
2 completed.

3 2. This affidavit does not create the status of dependent for  
4 health care coverage purposes."

5 Correct the title.

EFFECT: Clarifies that a kinship caregiver may be eighteen years of age or older. Expands the definition of kinship caregiver to include caregivers related to the child by adoption and to specify that a kinship caregiver may include a brother, sister, stepbrother, stepsister, half-brother, half-sister, uncle, aunt, niece, nephew, first cousin, or any person denoted by the prefix "grand" or "great". Removes the limitation on medical care, to which a kinship caregiver may be authorized to consent, to emergent medical care. Specifies that an affidavit shall not be valid if a kinship caregiver is unlawfully harboring a minor. Extends the period of validity of an affidavit from six months to twelve months and provides that an affidavit is renewable. Removes the requirements of the kinship caregiver that must be completed upon the expiration of an affidavit. Adds education services to the services for which an individual may not be subject to criminal or civil liability or professional disciplinary action for providing, in good faith reliance on an affidavit. Extends the period of time within which a kinship caregiver must provide notification that the child has ceased to reside with the caregiver from immediately to three days, excluding weekends and holidays. Replaces the requirement that the parent or legal custodian of the child consent to the affidavit with the requirement that the parent or legal custodian be notified of the affidavit. Removes the requirement that the kinship caregiver notify law enforcement if the caregiver is unable to contact the child's parents. Adds requirements that a kinship caregiver must satisfy as proof of the caregiver's efforts to reach the parent or legal custodian of the child. Makes technical corrections.

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