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**SUBSTITUTE SENATE BILL 5474**

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**State of Washington**

**58th Legislature**

**2003 Regular Session**

**By** Senate Committee on Children & Family Services & Corrections  
(originally sponsored by Senators Regala, Stevens, McAuliffe,  
Carlson, Kohl-Welles, Winsley and Rasmussen)

READ FIRST TIME 03/03/03.

1 AN ACT Relating to improving services for kinship caregivers;  
2 adding new sections to chapter 74.13 RCW; and creating a new section.

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

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

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

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

3 (1) "Kinship caregiver" means a person over eighteen, to whom the  
4 child is related by blood or marriage or to whom the child was related  
5 by marriage even if the marriage has been dissolved, who provides  
6 kinship care services to a child who resides with the caregiver.

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

9 (3) For a child defined as an "Indian child" under the federal  
10 Indian welfare act, 25 U.S.C. Sec. 1901 et seq., the definition of  
11 "extended family member" under the federal Indian child welfare act  
12 shall apply.

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

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

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

24 (3) The affidavit shall not be valid for more than six months after  
25 the date on which it is executed.

26 (4) The authority of a kinship caregiver to consent to or to refuse  
27 medical or dental care for a child is subordinate to any decision of  
28 the parent or other person having legal custody of the child, provided  
29 the decision of the parent or other person having legal custody of the  
30 child does not jeopardize the life, health, or safety of the child.

31 (5) A kinship caregiver who is unable to notify the parent or  
32 parents that the caregiver has the child must complete item 12 for the  
33 affidavit to be effective.

34 (6) At the expiration of the affidavit, the kinship caregiver must:

- 35 (a) Return the child to the parent or parents if available;  
36 (b) Notify the department that the parent or parents are not  
37 available; or

1 (c) Petition for permanent legal custody under chapter 13.34 RCW if  
2 the parent or parents are not available.

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

5 (1) A person who acts in good faith reliance on a kinship  
6 caregiver's affidavit, provided in section 5 of this act, to provide  
7 medical or dental care, without actual knowledge of facts contrary to  
8 those stated on the affidavit, is not subject to criminal liability or  
9 to civil liability to any person, and is not subject to professional  
10 disciplinary action, for such good faith reliance if the applicable  
11 portions of the affidavit are completed. This section applies even if  
12 medical or dental care is provided to a child in contravention of the  
13 wishes of the parent or other person having legal custody of the child  
14 as long as the person providing the medical or dental care has no  
15 actual knowledge of the wishes of the parent or other person having  
16 legal custody of the child.

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

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

21 (4) If the child ceases to reside with the kinship caregiver, the  
22 kinship caregiver shall immediately notify any and every school, health  
23 care provider, carrier, or other person or entity to whom the kinship  
24 caregiver has provided the affidavit that the child no longer resides  
25 with the caregiver. No further consent to school enrollment or medical  
26 treatment shall be given by the former kinship caregiver once the child  
27 ceases to reside with the former caregiver.

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

30 The kinship caregiver's authorization affidavit must be in  
31 substantially the following form:

32 Kinship Caregiver's Authorization Affidavit

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

1 Instructions: Completion of items 1 through 10 and the signing of  
2 the affidavit is required in order to authorize enrollment of a child  
3 in school and authorize school-related medical care. Completion of  
4 item 11 is additionally required to authorize any other medical care.  
5 Print clearly.

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

- 8 1. Name of child:
- 9 2. Child's birth date:
- 10 3. My name (adult executing this document):
- 11 4. My home address:
- 12 5. My telephone numbers:
- 13 6. My date of birth:
- 14 7. My driver's license or state identification card number:
- 15 8. I do not have a driver's license or state identification card  
16 number, and instead offer the following government-issued  
17 identification:

18 . . . . .  
19 (Document and number)

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

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

25 ( ) I have advised the parent(s) or other person(s) having legal  
26 custody of the child of my intent to enroll the child in school and  
27 to consent to school-based medical care. The parent(s) or legal  
28 custodian(s) consented to my assumption of this authority.

29 Name/address of parent(s) or legal custodian(s) who consented:  
30 . . . . .  
31 . . . . .

32 Date consent was given: . . . . .

33 I/we are the parent(s) of the child named in item 1 of this  
34 affidavit above. By my/our signature, I/we agree to the terms of  
35 this affidavit.

36 . . . . .  
37 . . . . .

38 ( ) I was unable to contact the parent(s) or other person(s) having

1 legal custody of the child to notify them of my intent to assume  
2 this authority to enroll the child in school and consent to school-  
3 based medical treatment.

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

6 ( ) I have advised the parent(s) or other person(s) having legal  
7 custody of the child of my intent to consent to medical care for  
8 the child. The parent(s) or legal custodian(s) consented to my  
9 assumption of this authority.

10 Name/address of parent(s) who consented:

11 . . . . .  
12 . . . . .

13 Date consent was given: . . . . .

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

17 12. ( ) Because I/we were unable to contact the parent(s), I/we  
18 have notified the law enforcement agency which serves me/us that  
19 I/we have the child.

20 Agency notified: . . . . .

21 Date/time of notice: . . . . .

22 Name of person notified: . . . . .

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 six months after the date on which it is executed.

4           Additional Information:

5           TO KINSHIP CAREGIVERS:

6           1. "Kinship caregiver" means a person over eighteen who provides  
7 kinship care services to a child who resides with the caregiver and to  
8 whom the caregiver is related by blood, marriage, or former marriage.

9           2. If the child ceases to reside with you, you are required to  
10 immediately notify every school, health care provider, carrier, or  
11 other person or entity to whom you have provided the affidavit.

12           3. Once the child ceases to reside with you, your authority to  
13 consent to school enrollment, school-based medical care, or any other  
14 medical care ends immediately and you are no longer allowed to make  
15 decisions on those matters.

16           4. At the expiration of this affidavit, you must:

17           (a) Return the child to the parent or parents if the parent or  
18 parents are available;

19           (b) Notify the department of social and health services that the  
20 parent or parents are not available; or

21           (c) Petition for permanent legal custody under chapter 13.34 RCW if  
22 the parent or parents are not available.

23           TO SCHOOL OFFICIALS:

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

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

32           TO HEALTH CARE PROVIDERS AND CARRIERS:

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

1 to any person, and is not subject to professional disciplinary action,  
2 for such reliance if the applicable portions of the affidavit are  
3 completed.

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

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