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HOUSE BILL 2030

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State of Washington

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2005 Regular Session

By Representatives Roberts and Kagi; by request of Department of Social and Health Services

Read first time 02/15/2005. Referred to Committee on Children & Family Services.

1 AN ACT Relating to guardianship of dependent children; amending RCW  
2 13.34.030, 13.34.110, 13.34.145, 13.34.230, 13.34.231, 13.34.232,  
3 13.34.233, 13.34.234, 13.34.236, and 13.32A.030; reenacting and  
4 amending RCW 74.15.020; adding new sections to chapter 13.34 RCW; and  
5 creating a new section.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that guardianship can  
8 be an appropriate permanent plan for some children who have been found  
9 to be dependent children under chapter 13.34 RCW and who cannot live  
10 with their parents. The legislature intends to strengthen stability  
11 and permanency for children by recognizing the value of a guardianship  
12 placement with relatives or other long-term caregivers, dismissal of  
13 dependencies, elimination of the need for continued governmental  
14 intervention in family life, and provision of support to the  
15 guardianship.

16 **Sec. 2.** RCW 13.34.030 and 2003 c 227 s 2 are each amended to read  
17 as follows:

18 For purposes of this chapter:

1 (1) "Abandoned" means when the child's parent, guardian, or other  
2 custodian has expressed, either by statement or conduct, an intent to  
3 forego, for an extended period, parental rights or responsibilities  
4 despite an ability to exercise such rights and responsibilities. If  
5 the court finds that the petitioner has exercised due diligence in  
6 attempting to locate the parent, no contact between the child and the  
7 child's parent, guardian, or other custodian for a period of three  
8 months creates a rebuttable presumption of abandonment, even if there  
9 is no expressed intent to abandon.

10 (2) "Child" and "juvenile" means any individual under the age of  
11 eighteen years.

12 (3) "Current placement episode" means the period of time that  
13 begins with the most recent date that the child was removed from the  
14 home of the parent, guardian, or legal custodian for purposes of  
15 placement in out-of-home care and continues until: (a) The child  
16 returns home; (b) an adoption decree, a permanent custody order, or  
17 guardianship order is entered; or (c) the dependency is dismissed,  
18 whichever occurs first.

19 (~~(4) ("Dependency guardian" means the person, nonprofit~~  
20 ~~corporation, or Indian tribe appointed by the court pursuant to this~~  
21 ~~chapter for the limited purpose of assisting the court in the~~  
22 ~~supervision of the dependency.~~

23 ~~(5))~~ "Dependent child" means any child who:

24 (a) Has been abandoned;

25 (b) Is abused or neglected as defined in chapter 26.44 RCW by a  
26 person legally responsible for the care of the child; or

27 (c) Has no parent, guardian, or custodian capable of adequately  
28 caring for the child, such that the child is in circumstances which  
29 constitute a danger of substantial damage to the child's psychological  
30 or physical development.

31 ~~((6))~~ (5) "Developmental disability" means a disability  
32 attributable to mental retardation, cerebral palsy, epilepsy, autism,  
33 or another neurological or other condition of an individual found by  
34 the secretary to be closely related to mental retardation or to require  
35 treatment similar to that required for individuals with mental  
36 retardation, which disability originates before the individual attains  
37 age eighteen, which has continued or can be expected to continue

1 indefinitely, and which constitutes a substantial handicap to the  
2 individual.

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

10 ~~(+8))~~ (7) "Guardian ad litem" means a person, appointed by the  
11 court to represent the best interests of a child in a proceeding under  
12 this chapter, or in any matter which may be consolidated with a  
13 proceeding under this chapter. A "court-appointed special advocate"  
14 appointed by the court to be the guardian ad litem for the child, or to  
15 perform substantially the same duties and functions as a guardian ad  
16 litem, shall be deemed to be guardian ad litem for all purposes and  
17 uses of this chapter.

18 ~~((+9))~~ (8) "Guardian ad litem program" means a court-authorized  
19 volunteer program, which is or may be established by the superior court  
20 of the county in which such proceeding is filed, to manage all aspects  
21 of volunteer guardian ad litem representation for children alleged or  
22 found to be dependent. Such management shall include but is not  
23 limited to: Recruitment, screening, training, supervision, assignment,  
24 and discharge of volunteers.

25 ~~((+10))~~ (9) "Guardianship" means a guardianship, established  
26 pursuant to this chapter, appointing a person to serve as the legal  
27 guardian and custodian of a child who has been a dependent child under  
28 this chapter.

29 (10) "Indigent" means a person who, at any stage of a court  
30 proceeding, is:

31 (a) Receiving one of the following types of public assistance:  
32 Temporary assistance for needy families, general assistance, poverty-  
33 related veterans' benefits, food stamps or food stamp benefits  
34 transferred electronically, refugee resettlement benefits, medicaid, or  
35 supplemental security income; or

36 (b) Involuntarily committed to a public mental health facility; or

37 (c) Receiving an annual income, after taxes, of one hundred twenty-  
38 five percent or less of the federally established poverty level; or

1 (d) Unable to pay the anticipated cost of counsel for the matter  
2 before the court because his or her available funds are insufficient to  
3 pay any amount for the retention of counsel.

4 (11) "Out-of-home care" means placement in a foster family home or  
5 group care facility licensed pursuant to chapter 74.15 RCW or placement  
6 in a home, other than that of the child's parent, guardian, or legal  
7 custodian, not required to be licensed pursuant to chapter 74.15 RCW.

8 (12) "Preventive services" means preservation services, as defined  
9 in chapter 74.14C RCW, and other reasonably available services,  
10 including housing services, capable of preventing the need for out-of-  
11 home placement while protecting the child. Housing services may  
12 include, but are not limited to, referrals to federal, state, local, or  
13 private agencies or organizations, assistance with forms and  
14 applications, or financial subsidies for housing.

15 (13) "Shelter care" means temporary physical care in a facility  
16 licensed pursuant to RCW 74.15.030 or in a home not required to be  
17 licensed pursuant to RCW 74.15.030.

18 (14) "Sibling" means a child's birth brother, birth sister,  
19 adoptive brother, adoptive sister, half-brother, or half-sister, or as  
20 defined by the law or custom of the Indian child's tribe for an Indian  
21 child as defined in 25 U.S.C. Sec. 1903(4).

22 (15) "Social study" means a written evaluation of matters relevant  
23 to the disposition of the case and shall contain the following  
24 information:

25 (a) A statement of the specific harm or harms to the child that  
26 intervention is designed to alleviate;

27 (b) A description of the specific services and activities, for both  
28 the parents and child, that are needed in order to prevent serious harm  
29 to the child; the reasons why such services and activities are likely  
30 to be useful; the availability of any proposed services; and the  
31 agency's overall plan for ensuring that the services will be delivered.  
32 The description shall identify the services chosen and approved by the  
33 parent;

34 (c) If removal is recommended, a full description of the reasons  
35 why the child cannot be protected adequately in the home, including a  
36 description of any previous efforts to work with the parents and the  
37 child in the home; the in-home treatment programs that have been  
38 considered and rejected; the preventive services that have been offered

1 or provided and have failed to prevent the need for out-of-home  
2 placement, unless the health, safety, and welfare of the child cannot  
3 be protected adequately in the home; and the parents' attitude toward  
4 placement of the child;

5 (d) A statement of the likely harms the child will suffer as a  
6 result of removal;

7 (e) A description of the steps that will be taken to minimize the  
8 harm to the child that may result if separation occurs including an  
9 assessment of the child's relationship and emotional bond with any  
10 siblings, and the agency's plan to provide ongoing contact between the  
11 child and the child's siblings if appropriate; and

12 (f) Behavior that will be expected before determination that  
13 supervision of the family or placement is no longer necessary.

14 NEW SECTION. **Sec. 3.** A new section is added to chapter 13.34 RCW  
15 to read as follows:

16 (1) Any dependency guardianship established under RCW 13.34.232 and  
17 in place on the effective date of this act shall remain in effect,  
18 notwithstanding the provisions of this act.

19 (2) The department of social and health services is authorized to  
20 review the child's situation with the dependency guardian to mutually  
21 determine the need for continued department involvement in the  
22 dependency guardianship and whether the dependency guardian is willing  
23 to enter into a guardianship subsidy agreement as authorized under RCW  
24 13.34.234.

25 (3) The dependency guardian and the department may move the court  
26 to modify a dependency guardianship established prior to the effective  
27 date of this act and convert it to a guardianship under this chapter.  
28 If both the dependency guardian and the department agree that the  
29 dependency guardianship should be converted, and the court finds that  
30 it is in the best interests of the child, the court shall grant the  
31 motion.

32 **Sec. 4.** RCW 13.34.110 and 2001 c 332 s 7 are each amended to read  
33 as follows:

34 (1) The court shall hold a fact-finding hearing on the petition  
35 and, unless the court dismisses the petition, shall make written  
36 findings of fact, stating the reasons therefor. The rules of evidence

1 shall apply at the fact-finding hearing and the parent, guardian, or  
2 legal custodian of the child shall have all of the rights provided in  
3 RCW 13.34.090(1). The petitioner shall have the burden of establishing  
4 by a preponderance of the evidence that the child is dependent within  
5 the meaning of RCW 13.34.030.

6 (2)(a) The parent, guardian, or legal custodian of the child may  
7 waive his or her right to a fact-finding hearing by stipulating or  
8 agreeing to the entry of an order of dependency establishing that the  
9 child is dependent within the meaning of RCW 13.34.030. The parent,  
10 guardian, or legal custodian may also stipulate or agree to an order of  
11 disposition pursuant to RCW 13.34.130 at the same time. Any stipulated  
12 or agreed order of dependency or disposition must be signed by the  
13 parent, guardian, or legal custodian and his or her attorney, unless  
14 the parent, guardian, or legal custodian has waived his or her right to  
15 an attorney in open court, and by the petitioner and the attorney,  
16 guardian ad litem, or court-appointed special advocate for the child,  
17 if any. If the department of social and health services is not the  
18 petitioner and is required by the order to supervise the placement of  
19 the child or provide services to any party, the department must also  
20 agree to and sign the order.

21 (b) Entry of any stipulated or agreed order of dependency or  
22 disposition is subject to approval by the court. The court shall  
23 receive and review a social study before entering a stipulated or  
24 agreed order and shall consider whether the order is consistent with  
25 the allegations of the dependency petition and the problems that  
26 necessitated the child's placement in out-of-home care. No social file  
27 or social study may be considered by the court in connection with the  
28 fact-finding hearing or prior to factual determination, except as  
29 otherwise admissible under the rules of evidence.

30 (c) Prior to the entry of any stipulated or agreed order of  
31 dependency, the parent, guardian, or legal custodian of the child and  
32 his or her attorney must appear before the court and the court within  
33 available resources must inquire and establish on the record that:

34 (i) The parent, guardian, or legal custodian understands the terms  
35 of the order or orders he or she has signed, including his or her  
36 responsibility to participate in remedial services as provided in any  
37 disposition order;

1 (ii) The parent, guardian, or legal custodian understands that  
2 entry of the order starts a process that could result in the filing of  
3 a petition to terminate his or her relationship with the child within  
4 the time frames required by state and federal law if he or she fails to  
5 comply with the terms of the dependency or disposition orders or fails  
6 to substantially remedy the problems that necessitated the child's  
7 placement in out-of-home care;

8 (iii) The parent, guardian, or legal custodian understands that the  
9 entry of the stipulated or agreed order of dependency is an admission  
10 that the child is dependent within the meaning of RCW 13.34.030 and  
11 shall have the same legal effect as a finding by the court that the  
12 child is dependent by at least a preponderance of the evidence, and  
13 that the parent, guardian, or legal custodian shall not have the right  
14 in any subsequent proceeding for termination of parental rights or  
15 (~~dependency~~) guardianship pursuant to this chapter or nonparental  
16 custody pursuant to chapter 26.10 RCW to challenge or dispute the fact  
17 that the child was found to be dependent; and

18 (iv) The parent, guardian, or legal custodian knowingly and  
19 willingly stipulated and agreed to and signed the order or orders,  
20 without duress, and without misrepresentation or fraud by any other  
21 party.

22 If a parent, guardian, or legal custodian fails to appear before  
23 the court after stipulating or agreeing to entry of an order of  
24 dependency, the court may enter the order upon a finding that the  
25 parent, guardian, or legal custodian had actual notice of the right to  
26 appear before the court and chose not to do so. The court may require  
27 other parties to the order, including the attorney for the parent,  
28 guardian, or legal custodian, to appear and advise the court of the  
29 parent's, guardian's, or legal custodian's notice of the right to  
30 appear and understanding of the factors specified in this subsection.  
31 A parent, guardian, or legal custodian may choose to waive his or her  
32 presence at the in-court hearing for entry of the stipulated or agreed  
33 order of dependency by submitting to the court through counsel a  
34 completed stipulated or agreed dependency fact-finding/disposition  
35 statement in a form determined by the Washington state supreme court  
36 pursuant to General Rule GR 9.

37 (3) Immediately after the entry of the findings of fact, the court  
38 shall hold a disposition hearing, unless there is good cause for

1 continuing the matter for up to fourteen days. If good cause is shown,  
2 the case may be continued for longer than fourteen days. Notice of the  
3 time and place of the continued hearing may be given in open court. If  
4 notice in open court is not given to a party, that party shall be  
5 notified by certified mail of the time and place of any continued  
6 hearing. Unless there is reasonable cause to believe the health,  
7 safety, or welfare of the child would be jeopardized or efforts to  
8 reunite the parent and child would be hindered, the court shall direct  
9 the department to notify those adult persons who: (a) Are related by  
10 blood or marriage to the child in the following degrees: Parent,  
11 grandparent, brother, sister, stepparent, stepbrother, stepsister,  
12 uncle, or aunt; (b) are known to the department as having been in  
13 contact with the family or child within the past twelve months; and (c)  
14 would be an appropriate placement for the child. Reasonable cause to  
15 dispense with notification to a parent under this section must be  
16 proved by clear, cogent, and convincing evidence.

17 The parties need not appear at the fact-finding or dispositional  
18 hearing if the parties, their attorneys, the guardian ad litem, and  
19 court-appointed special advocates, if any, are all in agreement.

20 **Sec. 5.** RCW 13.34.145 and 2003 c 227 s 6 are each amended to read  
21 as follows:

22 (1) A permanency plan shall be developed no later than sixty days  
23 from the time the supervising agency assumes responsibility for  
24 providing services, including placing the child, or at the time of a  
25 hearing under RCW 13.34.130, whichever occurs first. The permanency  
26 planning process continues until a permanency planning goal is achieved  
27 or dependency is dismissed. The planning process shall include  
28 reasonable efforts to return the child to the parent's home.

29 (a) Whenever a child is placed in out-of-home care pursuant to RCW  
30 13.34.130, the agency that has custody of the child shall provide the  
31 court with a written permanency plan of care directed towards securing  
32 a safe, stable, and permanent home for the child as soon as possible.  
33 The plan shall identify one of the following outcomes as the primary  
34 goal and may also identify additional outcomes as alternative goals:  
35 Return of the child to the home of the child's parent, guardian, or  
36 legal custodian; adoption; guardianship; permanent legal custody; long-  
37 term relative or foster care, until the child is age eighteen, with a

1 written agreement between the parties and the care provider; a  
2 responsible living skills program; and independent living, if  
3 appropriate and if the child is age sixteen or older and the provisions  
4 of subsection (2) of this section are met.

5 (b) The identified outcomes and goals of the permanency plan may  
6 change over time based upon the circumstances of the particular case.

7 (c) Permanency planning goals should be achieved at the earliest  
8 possible date, preferably before the child has been in out-of-home care  
9 for fifteen months. In cases where parental rights have been  
10 terminated, the child is legally free for adoption, and adoption has  
11 been identified as the primary permanency planning goal, it shall be a  
12 goal to complete the adoption within six months following entry of the  
13 termination order.

14 (d) For purposes related to permanency planning:

15 (i) "Guardianship" means (~~(a dependency)~~) guardianship(~~(, a legal~~  
16 ~~guardianship pursuant to chapter 11.88 RCW)~~) pursuant to RCW 13.34.232,  
17 or equivalent laws of another state or a federally recognized Indian  
18 tribe.

19 (ii) (~~("Permanent custody order" means a custody order entered~~  
20 ~~pursuant to chapter 26.10 RCW.~~

21 ~~(iii)~~) "Permanent legal custody" or "permanent custody order"  
22 means legal custody pursuant to chapter 26.10 RCW or equivalent laws of  
23 another state or of a federally recognized Indian tribe.

24 (2) Whenever a permanency plan identifies independent living as a  
25 goal, the plan shall also specifically identify the services that will  
26 be provided to assist the child to make a successful transition from  
27 foster care to independent living. Before the court approves  
28 independent living as a permanency plan of care, the court shall make  
29 a finding that the provision of services to assist the child in making  
30 a transition from foster care to independent living will allow the  
31 child to manage his or her financial, personal, social, educational,  
32 and nonfinancial affairs. The department shall not discharge a child  
33 to an independent living situation before the child is eighteen years  
34 of age unless the child becomes emancipated pursuant to chapter 13.64  
35 RCW.

36 (3) A permanency planning hearing shall be held in all cases where  
37 the child has remained in out-of-home care for at least nine months and  
38 an adoption decree, guardianship order, or permanent custody order has

1 not previously been entered. The hearing shall take place no later  
2 than twelve months following commencement of the current placement  
3 episode.

4 (4) Whenever a child is removed from the home of a (~~dependency~~  
5 ~~guardian or~~) long-term relative or foster care provider, and the child  
6 is not returned to the home of the parent, guardian, or legal custodian  
7 but is placed in out-of-home care, a permanency planning hearing shall  
8 take place no later than twelve months, as provided in subsection (3)  
9 of this section, following the date of removal unless, prior to the  
10 hearing, the child returns to the home of the (~~dependency guardian~~  
11 ~~or~~) long-term care provider, the child is placed in the home of the  
12 parent, guardian, or legal custodian, an adoption decree, guardianship  
13 order, or a permanent custody order is entered, or the dependency is  
14 dismissed.

15 (5) No later than ten working days prior to the permanency planning  
16 hearing, the agency having custody of the child shall submit a written  
17 permanency plan to the court and shall mail a copy of the plan to all  
18 parties and their legal counsel, if any.

19 (6) At the permanency planning hearing, the court shall enter  
20 findings as required by RCW 13.34.138 and shall review the permanency  
21 plan prepared by the agency. If the child has resided in the home of  
22 a foster parent or relative for more than six months prior to the  
23 permanency planning hearing, the court shall also enter a finding  
24 regarding whether the foster parent or relative was informed of the  
25 hearing as required in RCW 74.13.280 and 13.34.138. If a goal of long-  
26 term foster or relative care has been achieved prior to the permanency  
27 planning hearing, the court shall review the child's status to  
28 determine whether the placement and the plan for the child's care  
29 remain appropriate. In cases where the primary permanency planning  
30 goal has not been achieved, the court shall inquire regarding the  
31 reasons why the primary goal has not been achieved and determine what  
32 needs to be done to make it possible to achieve the primary goal. In  
33 all cases, the court shall:

34 (a)(i) Order the permanency plan prepared by the agency to be  
35 implemented; or

36 (ii) Modify the permanency plan, and order implementation of the  
37 modified plan; and

1 (b)(i) Order the child returned home only if the court finds that  
2 a reason for removal as set forth in RCW 13.34.130 no longer exists; or

3 (ii) Order the child to remain in out-of-home care for a limited  
4 specified time period while efforts are made to implement the  
5 permanency plan.

6 (7) If the court orders the child returned home, casework  
7 supervision shall continue for at least six months, at which time a  
8 review hearing shall be held pursuant to RCW 13.34.138, and the court  
9 shall determine the need for continued intervention.

10 (8) The juvenile court may hear a petition for permanent legal  
11 custody when: (a) The court has ordered implementation of a permanency  
12 plan that includes permanent legal custody; and (b) the party pursuing  
13 the permanent legal custody is the party identified in the permanency  
14 plan as the prospective legal custodian. During the pendency of such  
15 proceeding, the court shall conduct review hearings and further  
16 permanency planning hearings as provided in this chapter. ~~((At the  
17 conclusion of the legal guardianship or permanent legal custody  
18 proceeding, a juvenile court hearing shall be held for the purpose of  
19 determining whether dependency should be dismissed.))~~ If a  
20 ~~((guardianship or))~~ permanent custody order has been entered, the  
21 dependency shall be dismissed.

22 (9) Continued juvenile court jurisdiction under this chapter shall  
23 not be a barrier to the entry of an order establishing a ~~((legal))~~  
24 guardianship or permanent legal custody when the requirements of  
25 subsection (8) of this section are met.

26 (10) Following the first permanency planning hearing, the court  
27 shall hold a further permanency planning hearing in accordance with  
28 this section at least once every twelve months until a permanency  
29 planning goal is achieved or the dependency is dismissed, whichever  
30 occurs first.

31 (11) Except as provided in RCW 13.34.235, the status of all  
32 dependent children shall continue to be reviewed by the court at least  
33 once every six months, in accordance with RCW 13.34.138, until the  
34 dependency is dismissed. Prior to the second permanency planning  
35 hearing, the agency that has custody of the child shall consider  
36 whether to file a petition for termination of parental rights.

37 (12) Nothing in this chapter may be construed to limit the ability  
38 of the agency that has custody of the child to file a petition for

1 termination of parental rights or a guardianship petition at any time  
2 following the establishment of dependency. Upon the filing of such a  
3 petition, a fact-finding hearing shall be scheduled and held in  
4 accordance with this chapter unless the agency requests dismissal of  
5 the petition prior to the hearing or unless the parties enter an agreed  
6 order terminating parental rights, establishing a guardianship, or  
7 otherwise resolving the matter.

8 (13) The approval of a permanency plan that does not contemplate  
9 return of the child to the parent does not relieve the supervising  
10 agency of its obligation to provide reasonable services, under this  
11 chapter, intended to effectuate the return of the child to the parent,  
12 including but not limited to, visitation rights. The court shall  
13 consider the child's relationships with siblings in accordance with RCW  
14 13.34.130.

15 (14) Nothing in this chapter may be construed to limit the  
16 procedural due process rights of any party in a termination or  
17 guardianship proceeding filed under this chapter.

18 **Sec. 6.** RCW 13.34.230 and 1981 c 195 s 1 are each amended to read  
19 as follows:

20 Any party to a dependency proceeding, including the supervising  
21 agency, may file a petition in juvenile court requesting that a  
22 guardianship be (~~created~~) established as to a dependent child. The  
23 petition shall conform to the requirements of RCW 13.34.040, shall be  
24 served upon the parties as provided in RCW 13.34.070(8), and shall  
25 allege all applicable requirements of RCW 13.34.231. The proposed  
26 guardian and department of social and health services shall receive  
27 notice of any guardianship proceedings and have the right to intervene  
28 in the proceedings.

29 NEW SECTION. **Sec. 7.** A new section is added to chapter 13.34 RCW  
30 to read as follows:

31 (1) Every guardianship petition filed in proceedings under RCW  
32 13.34.231 shall contain a statement alleging whether the child is or  
33 may be an Indian child as defined in 25 U.S.C. Sec. 1903. If the child  
34 is an Indian child as defined under the Indian child welfare act, the  
35 provisions of that act shall apply.

1 (2) Every order or decree entered in any proceeding under this  
2 chapter shall contain a finding that the Indian child welfare act does  
3 or does not apply. Where there is a finding that the Indian child  
4 welfare act does apply, the decree or order must also contain a finding  
5 that all notice requirements and evidentiary requirements under the  
6 Indian child welfare act have been satisfied.

7 **Sec. 8.** RCW 13.34.231 and 2000 c 122 s 29 are each amended to read  
8 as follows:

9 (1) At the hearing on a ~~((dependency))~~ guardianship petition, all  
10 parties have the right to present evidence and cross examine witnesses.  
11 The rules of evidence apply to the conduct of the hearing.

12 (2) A guardianship shall be established if the court finds by a  
13 preponderance of the evidence that:

14 ~~((+1))~~ (a) The child has been found to be a dependent child under  
15 RCW 13.34.030;

16 ~~((+2))~~ (b) A dispositional order has been entered pursuant to RCW  
17 13.34.130;

18 ~~((+3))~~ (c) The child has been removed or will, at the time of the  
19 hearing, have been removed from the custody of the parent for a period  
20 of at least six months pursuant to a finding of dependency under RCW  
21 13.34.030;

22 ~~((+4))~~ (d) The services ordered under RCW 13.34.130 and 13.34.136  
23 have been offered or provided and all necessary services, reasonably  
24 available, capable of correcting the parental deficiencies within the  
25 foreseeable future have been offered or provided;

26 ~~((+5))~~ (e) There is little likelihood that conditions will be  
27 remedied so that the child can be returned to the parent in the near  
28 future; ~~((and~~

29 ~~(+6) A))~~ (f) The child has been in the home of the proposed guardian  
30 for a period of at least six months;

31 (g) The proposed guardian has signed a statement acknowledging the  
32 guardian's rights and responsibilities toward the child and the  
33 guardian's understanding and acceptance that the guardianship is  
34 commitment to care for the child until the child reaches age eighteen;

35 (h) Guardianship is a more reasonable or appropriate option for the  
36 child than adoption, and guardianship, rather than termination of the

1 parent-child relationship or continuation of efforts to return the  
2 child to the custody of the parent, would be in the best interest of  
3 the child.

4 (3) In determining whether the guardianship is in the best interest  
5 of the child, the court shall consider the following factors:

6 (a) The nature of the relationship between the child and the  
7 child's parent or parents;

8 (b) The relationship of the proposed guardian to the child;

9 (c) The nature of the child's relationships with siblings and the  
10 extent to which a guardianship will allow or facilitate maintaining  
11 such relationships;

12 (d) The child's preference, if expressed, for the guardianship;

13 (e) The ability of the proposed guardian to meet the familial and  
14 cultural needs of the child;

15 (f) The position of the child's tribe regarding the proposed  
16 guardianship, if the child is an Indian child as defined in 25 U.S.C.  
17 Sec. 1903.

18 (4)(a) The court may not establish a guardianship for a child who  
19 is under the age of twelve years or who has no legal parent unless the  
20 court, in addition to making the findings set forth in this section,  
21 determines that exceptional circumstances exist. Exceptional  
22 circumstances may include, but are not limited to:

23 (i) The child has special needs, and a suitable guardian is willing  
24 to accept custody of the child under this chapter; or

25 (ii) Establishment of a guardianship will allow the child to be  
26 placed with or maintain contact with siblings to an extent unlikely to  
27 be achieved through other permanency options.

28 (b) A finding of exceptional circumstances is not required for such  
29 child, in addition to the other requirements set forth in this section,  
30 if the proposed guardian is a person who has made a commitment to  
31 provide for the long-term care of the child and: (i) Is related to the  
32 child as described in RCW 74.15.020(2); (ii) has been a long-term care  
33 giver to the child and has acted as a parent figure to the child and is  
34 viewed by the child as a parent figure; or (iii) has been identified by  
35 the child's family and the child, if the child is age twelve years old,  
36 or older, as the preferred guardian.

1           **Sec. 9.** RCW 13.34.232 and 1994 c 288 s 7 are each amended to read  
2 as follows:

3           (1) If the court has made a finding under RCW 13.34.231, it shall  
4 enter an order establishing a ~~((dependency))~~ guardianship for the child  
5 and shall dismiss the dependency. The order shall:

6           (a) Appoint a person ~~((or agency))~~ to serve as ~~((dependency))~~ legal  
7 guardian ~~((for the limited purpose of assisting the court to supervise~~  
8 ~~the dependency))~~ of the child;

9           (b) Specify the ~~((dependency))~~ guardian's rights and  
10 responsibilities concerning the care, custody, and control of the  
11 child~~((A dependency guardian shall not have the authority to consent~~  
12 ~~to the child's adoption));~~

13           (c) Specify the ~~((dependency))~~ guardian's authority, if any, to  
14 receive, invest, and expend funds, benefits, or property belonging to  
15 the child; and

16           (d) Specify an appropriate frequency and type of ~~((visitation))~~  
17 contact between the parent and the child~~((and~~

18 ~~specify the need for any continued involvement of the~~  
19 ~~supervising agency and the nature of that involvement, if any))~~ and  
20 between the child and the child's siblings.

21           (2) ~~((Unless the court specifies otherwise in the guardianship~~  
22 ~~order,))~~ The ~~((dependency))~~ guardian shall maintain the physical and  
23 legal custody of the child and have the following rights and duties:

24           (a) Protect, discipline, and educate the child;

25           (b) Provide food, clothing, shelter, education as required by  
26 law~~((, and routine health care for the child));~~

27           (c) Consent to necessary health and surgical care and sign a  
28 release of health care information to appropriate authorities, pursuant  
29 to law;

30           (d) Consent to social and school activities of the child; ~~((and))~~

31           (e) If the child has independent funds or other valuable property  
32 under the control of the guardian, the guardian shall provide an annual  
33 written accounting to the court regarding receipt and expenditure by  
34 the ~~((dependency))~~ guardian of any such funds~~((, benefits,))~~ or  
35 property ~~((belonging to the child and expenditures made therefrom)).~~  
36 However, the guardian shall not be required to account for any routine  
37 benefit funds received on behalf of the child from a public social  
38 service agency; and

1 (f) Notify the court of a change of address of the guardian or  
2 child. However, unless specifically ordered by the court, the notice  
3 requirements and standards for relocation set forth in chapter 26.09  
4 RCW shall not apply to guardianships established pursuant to this  
5 chapter.

6 (3) As used in this section, the term "health care" includes, but  
7 is not limited to, medical, dental, psychological, and psychiatric care  
8 and treatment.

9 ~~(4) ((The child shall remain dependent for the duration of the~~  
10 ~~guardianship. While the guardianship remains in effect, the dependency~~  
11 ~~guardian shall be a party to any dependency proceedings pertaining to~~  
12 ~~the child.~~

13 ~~(5))~~ The guardianship shall remain in effect only until the child  
14 is eighteen years of age or until the court terminates the guardianship  
15 order, whichever occurs sooner.

16 (5) The court shall not have the authority, in a guardianship  
17 proceeding, to order the department of social and health services to  
18 supervise or to provide services to the guardian and/or the child.

19 (6) Letters of guardianship shall be issued to the guardian upon  
20 the filing of the order appointing the guardian pursuant to this  
21 chapter.

22 **Sec. 10.** RCW 13.34.233 and 2000 c 122 s 30 are each amended to  
23 read as follows:

24 (1) Any party, including the guardian, may ~~((request))~~ apply to the  
25 court ((under RCW 13.34.150)) to modify or terminate a ((dependency))  
26 guardianship order. ((Notice of any motion to modify or terminate the  
27 guardianship shall be served on all other parties, including any agency  
28 that was responsible for supervising the child's placement at the time  
29 the guardianship petition was filed. Notice in all cases shall be  
30 served upon the department. If the department was not previously a  
31 party to the guardianship proceeding, the department shall nevertheless  
32 have the right to: (a) Initiate a proceeding to modify or terminate a  
33 guardianship; and (b) intervene at any stage of such a proceeding)) If  
34 the applicant is represented by counsel, counsel shall move for an  
35 order to show cause why the relief should not be granted, pursuant to  
36 this section. If the applicant is not represented by counsel, he or  
37 she may move for an order to show cause, or may deliver a written

1 request to the clerk of the court. The written request must contain  
2 the reasons that justify a modification or termination of the  
3 guardianship order.

4 (2) By the next judicial day after receipt of an unrepresented  
5 person's request to modify or terminate a guardianship order, the clerk  
6 shall deliver the request to the court. The court may: (a) Direct the  
7 clerk to schedule a hearing; (b) appoint a guardian ad litem to  
8 investigate the issues raised by the application or take any emergency  
9 action the court deems necessary to protect the juvenile who is the  
10 subject of the guardianship until a hearing can be held; or (c) deny  
11 the application without scheduling a hearing, if it appears, based on  
12 documents in the court file, that the application is frivolous. Prior  
13 to denying an application without a hearing, the court may request a  
14 response from any party. Any denial of an application without a  
15 hearing shall be in writing with the reasons for denial explained. A  
16 copy of the order shall be mailed by the clerk to the applicant, to the  
17 guardian, and to any other person or agency entitled to notice. Unless  
18 within thirty days after receiving the request from the clerk the court  
19 directs otherwise, the clerk shall schedule a hearing on the request  
20 and mail notice to the guardian, the child if the child is age twelve  
21 or older, the applicant, the department, and any other person entitled  
22 to receive notice. The court shall hold a hearing on the motion before  
23 modifying or terminating the guardianship.

24 (3) The terms of a guardianship order may be modified only if the  
25 court finds, by a preponderance of the evidence and upon the basis of  
26 facts that have arisen since the entry of the guardianship order, that  
27 a substantial change in circumstances has occurred and that the  
28 modification is in the best interest of the child.

29 (4) The guardianship may be (~~modified or~~) terminated (~~upon the~~  
30 ~~motion of any party or the department~~) only if the court finds, by a  
31 preponderance of the evidence and upon the basis of facts that have  
32 arisen since entry of the guardianship order, that (~~there has been~~)  
33 a substantial change (~~of~~) has occurred in the circumstances  
34 (~~subsequent to the establishment of the guardianship~~) of the child or  
35 of the guardian and that (~~it~~) the termination is in the (~~child's~~)  
36 best interest (~~to modify or terminate the guardianship. The court~~  
37 shall hold a hearing on the motion before modifying or terminating a

1 guardianship)) of the child and is necessary to serve the best  
2 interests of the child.

3 ~~((3) Upon entry of an order terminating the guardianship, the~~  
4 ~~dependency guardian shall not have any rights or responsibilities with~~  
5 ~~respect to the child and shall not have legal standing to participate~~  
6 ~~as a party in further dependency proceedings pertaining to the child.~~  
7 ~~The court may allow the child's dependency guardian to attend~~  
8 ~~dependency review proceedings pertaining to the child for the sole~~  
9 ~~purpose of providing information about the child to the court.~~

10 ~~(4))~~ (5) The court may only terminate a guardianship on the  
11 application of a parent who is seeking a return of custody of the  
12 child, if it finds by a preponderance of the evidence and on the basis  
13 of facts that have arisen since the guardianship was established that:

14 (a) The parent has substantially and successfully addressed the  
15 parenting deficiencies identified by the court in the dependency  
16 action, or the circumstances of the parent have changed, and the child  
17 would no longer be at risk of harm to the child's health, welfare, and  
18 safety if returned to the care and custody of the parent;

19 (b) A substantial change has occurred in the circumstances of the  
20 guardian such that the guardian is unfit to care for the child or is no  
21 longer able to provide care for the child;

22 (c) The child, if age twelve or older, agrees to the return to the  
23 parent; and

24 (d) Termination of the guardianship and return of the child to the  
25 care and custody of the parent is in the best interests of the child.

26 (6) The court may terminate a guardianship on the stipulation of  
27 the child, if the child is age twelve or older, the child's guardian,  
28 and a parent of the child who is seeking to regain custody of the child  
29 if it finds by a preponderance of the evidence and on the basis of  
30 facts that have arisen since the guardianship was established that:

31 (a) The parent has substantially and successfully addressed the  
32 parenting deficiencies identified by the court in the dependency  
33 action, or the circumstances of the parent have changed, and the child  
34 would no longer be at risk of harm to the child's health, welfare, and  
35 safety if returned to the care and custody of the parent;

36 (b) The guardian of the child agrees that the parent is presently  
37 able to provide appropriate care for the child and agrees to the return  
38 of the child to the parent's care and custody;

1 (c) The child if age twelve or older agrees to the return to the  
2 parent; and

3 (d) Termination of the guardianship and return of the child to the  
4 care and custody of the parent is in the best interests of the child.

5 (7) At any time during a proceeding for modification or termination  
6 of a guardianship order, the court may, on its own motion or on the  
7 motion of any party, appoint a guardian ad litem or attorney for the  
8 child to represent and be an advocate for the best interests of the  
9 child.

10 (8) Upon entry of an order terminating the guardianship, the  
11 ((child shall remain dependent and the)) court shall either return the  
12 child to the child's parent or order the child into the custody,  
13 control, and care of ((the department or a licensed child placing  
14 agency for placement in a foster home or group care facility licensed  
15 pursuant to chapter 74.15 RCW or in a home not required to be licensed  
16 pursuant to such chapter)) a substitute guardian. The court shall not  
17 place a child in the custody of the child's parent unless the court  
18 finds that reasons for removal as set forth in RCW 13.34.130 no longer  
19 exist and that such placement is in the child's best interest. ((The  
20 court shall thereafter conduct reviews as provided in RCW 13.34.138  
21 and, where applicable, shall hold a permanency planning hearing in  
22 accordance with RCW 13.34.145.)) The court shall have the authority to  
23 place a child in shelter care or other out-of-home care licensed by the  
24 department under chapter 74.15 RCW only if a dependency petition has  
25 been filed pursuant to RCW 13.34.040 and is currently pending before  
26 the court. The court may request that the department file a dependency  
27 petition on behalf of the child.

28 **Sec. 11.** RCW 13.34.234 and 1994 c 288 s 9 are each amended to read  
29 as follows:

30 ((Establishment of a dependency guardianship under RCW 13.34.231  
31 and 13.34.232 does not preclude the dependency guardian from receiving  
32 foster care payments.))

33 (1) The department of social and health services may provide  
34 subsidies for special needs children placed in guardianships approved  
35 under RCW 13.34.232. It is the intent of the legislature that the  
36 department model any guardianship subsidy program on the department's  
37 adoption support program.

1       (2) The department shall, by rule, establish eligibility standards  
2 for the guardianship subsidy. Children eligible for a subsidy shall  
3 include special needs children whose guardian was receiving temporary  
4 assistance for needy families or foster care payments from the  
5 department, during the dependency, to meet the child's needs.

6       (3) The department, by rule, shall adopt maximum rates for  
7 guardianship subsidies to assist the guardian to meet the child's  
8 special needs.

9       (4) The department may, within available funds, establish benefits  
10 that encourage and provide incentives for persons related to the child  
11 to become the child's guardian pursuant to RCW 13.34.232.

12       (5) In accordance with rules adopted under this section, the  
13 department may enter into a written agreement with the guardian, with  
14 the agreement signed by the department and the guardian, to provide for  
15 basic subsidy payments following the court's order establishing the  
16 guardianship.

17       (6) An agreement for a guardianship subsidy, although subject to  
18 review and adjustment through negotiation between the department and  
19 the guardian, constitutes a contract within the meaning of Article I,  
20 section 13, of the state Constitution. A decision of the state to  
21 discontinue or reduce general appropriations made available for the  
22 purpose of the subsidy shall not affect the state's obligation to  
23 comply with the terms of existing guardianship subsidy agreements,  
24 subject to such review and negotiated adjustment as provided in rule.

25       NEW SECTION. Sec. 12. A new section is added to chapter 13.34 RCW  
26 to read as follows:

27       In deciding whether to grant a petition for guardianship of a  
28 special needs child, the superior court shall consider any subsidy  
29 agreement made or proposed to be made between the department and any  
30 prospective guardian for any payment or payments which are to be  
31 provided by the department in support of the guardianship. Before the  
32 date of the hearing on the petition for guardianship, the department  
33 shall file a copy of any initial agreement with the court. If the  
34 court, in its judgment, finds the provision made in an agreement to be  
35 inadequate, it may make any recommendation as it deems warranted with  
36 respect to the agreement to the department. The court shall not,  
37 however, solely by virtue of this section, be empowered to direct the

1 department to make payment. This section shall not be deemed to limit  
2 any other power of the superior court with respect to the guardianship  
3 or any related matter.

4 **Sec. 13.** RCW 13.34.236 and 1994 c 288 s 10 are each amended to  
5 read as follows:

6 (1) Any suitable person over the age of twenty-one years who is not  
7 otherwise disqualified by this section(~~(, any nonprofit corporation, or~~  
8 ~~any Indian tribe)) may be appointed the ((dependency)) guardian of a  
9 child under RCW 13.34.232. (~~No person is qualified to serve as a~~  
10 ~~dependency guardian unless the person meets the minimum requirements to~~  
11 ~~care for children as provided in RCW 74.15.030.))~~)~~

12 (2) Before the court may establish a guardianship of a child, the  
13 department, a private agency licensed under the provisions of chapter  
14 74.15 RCW or other state's licensing authority, or the child's tribe if  
15 the child is an Indian child, shall have available in its files or  
16 shall complete a home study approving the proposed guardian. The home  
17 study shall include a criminal history background check under RCW  
18 74.15.030 of those persons age sixteen and older residing in the  
19 proposed guardian's home. The department shall be required to complete  
20 the home study only if the department currently is providing services  
21 to the child.

22 (3) The court shall not approve a guardianship until the child has  
23 resided with the proposed guardian for a minimum of six months and the  
24 department or supervising private agency has recommended that the  
25 guardianship be established and, if the child is an Indian child, the  
26 child's tribe does not object to the establishment of the guardianship.

27 (4) If the preferences of a child's parent were not considered  
28 under RCW 13.34.260 as they relate to the proposed ((dependency))  
29 guardian, the court shall consider such preferences before appointing  
30 the ((dependency)) guardian.

31 **Sec. 14.** RCW 13.32A.030 and 2000 c 123 s 2 are each amended to  
32 read as follows:

33 As used in this chapter the following terms have the meanings  
34 indicated unless the context clearly requires otherwise:

35 (1) "Abuse or neglect" means the injury, sexual abuse, sexual  
36 exploitation, negligent treatment, or maltreatment of a child by any

1 person under circumstances which indicate that the child's health,  
2 welfare, and safety is harmed, excluding conduct permitted under RCW  
3 9A.16.100. An abused child is a child who has been subjected to child  
4 abuse or neglect as defined in this section.

5 (2) "Administrator" means the individual who has the daily  
6 administrative responsibility of a crisis residential center, or his or  
7 her designee.

8 (3) "At-risk youth" means a juvenile:

9 (a) Who is absent from home for at least seventy-two consecutive  
10 hours without consent of his or her parent;

11 (b) Who is beyond the control of his or her parent such that the  
12 child's behavior endangers the health, safety, or welfare of the child  
13 or any other person; or

14 (c) Who has a substance abuse problem for which there are no  
15 pending criminal charges related to the substance abuse.

16 (4) "Child," "juvenile," and "youth" mean any unemancipated  
17 individual who is under the chronological age of eighteen years.

18 (5) "Child in need of services" means a juvenile:

19 (a) Who is beyond the control of his or her parent such that the  
20 child's behavior endangers the health, safety, or welfare of the child  
21 or other person;

22 (b) Who has been reported to law enforcement as absent without  
23 consent for at least twenty-four consecutive hours on two or more  
24 separate occasions from the home of either parent, a crisis residential  
25 center, an out-of-home placement, or a court-ordered placement; and

26 (i) Has exhibited a serious substance abuse problem; or

27 (ii) Has exhibited behaviors that create a serious risk of harm to  
28 the health, safety, or welfare of the child or any other person; or

29 (c)(i) Who is in need of: (A) Necessary services, including food,  
30 shelter, health care, clothing, or education; or (B) services designed  
31 to maintain or reunite the family;

32 (ii) Who lacks access to, or has declined to utilize, these  
33 services; and

34 (iii) Whose parents have evidenced continuing but unsuccessful  
35 efforts to maintain the family structure or are unable or unwilling to  
36 continue efforts to maintain the family structure.

37 (6) "Child in need of services petition" means a petition filed in

1 juvenile court by a parent, child, or the department seeking  
2 adjudication of placement of the child.

3 (7) "Crisis residential center" means a secure or semi-secure  
4 facility established pursuant to chapter 74.13 RCW.

5 (8) "Custodian" means the person or entity who has the legal right  
6 to the custody of the child.

7 (9) "Department" means the department of social and health  
8 services.

9 (10) "Extended family member" means an adult who is a grandparent,  
10 brother, sister, stepbrother, stepsister, uncle, aunt, or first cousin  
11 with whom the child has a relationship and is comfortable, and who is  
12 willing and available to care for the child.

13 (11) "Guardian" means that person or agency that (a) has been  
14 appointed as the guardian of a child in a legal proceeding (~~other than~~  
15 ~~a proceeding under chapter 13.34 RCW~~), and (b) has the right to legal  
16 custody of the child pursuant to such appointment. (~~The term~~  
17 ~~"guardian" does not include a "dependency guardian" appointed pursuant~~  
18 ~~to a proceeding under chapter 13.34 RCW.~~)

19 (12) "Multidisciplinary team" means a group formed to provide  
20 assistance and support to a child who is an at-risk youth or a child in  
21 need of services and his or her parent. The team shall include the  
22 parent, a department case worker, a local government representative  
23 when authorized by the local government, and when appropriate, members  
24 from the mental health and substance abuse disciplines. The team may  
25 also include, but is not limited to, the following persons: Educators,  
26 law enforcement personnel, probation officers, employers, church  
27 persons, tribal members, therapists, medical personnel, social service  
28 providers, placement providers, and extended family members. The team  
29 members shall be volunteers who do not receive compensation while  
30 acting in a capacity as a team member, unless the member's employer  
31 chooses to provide compensation or the member is a state employee.

32 (13) "Out-of-home placement" means a placement in a foster family  
33 home or group care facility licensed pursuant to chapter 74.15 RCW or  
34 placement in a home, other than that of the child's parent, guardian,  
35 or legal custodian, not required to be licensed pursuant to chapter  
36 74.15 RCW.

37 (14) "Parent" means the parent or parents who have the legal right  
38 to custody of the child. "Parent" includes custodian or guardian.

1 (15) "Secure facility" means a crisis residential center, or  
2 portion thereof, that has locking doors, locking windows, or a secured  
3 perimeter, designed and operated to prevent a child from leaving  
4 without permission of the facility staff.

5 (16) "Semi-secure facility" means any facility, including but not  
6 limited to crisis residential centers or specialized foster family  
7 homes, operated in a manner to reasonably assure that youth placed  
8 there will not run away. Pursuant to rules established by the  
9 department, the facility administrator shall establish reasonable hours  
10 for residents to come and go from the facility such that no residents  
11 are free to come and go at all hours of the day and night. To prevent  
12 residents from taking unreasonable actions, the facility administrator,  
13 where appropriate, may condition a resident's leaving the facility upon  
14 the resident being accompanied by the administrator or the  
15 administrator's designee and the resident may be required to notify the  
16 administrator or the administrator's designee of any intent to leave,  
17 his or her intended destination, and the probable time of his or her  
18 return to the center.

19 (17) "Staff secure facility" means a structured group care facility  
20 licensed under rules adopted by the department with a ratio of at least  
21 one adult staff member to every two children.

22 (18) "Temporary out-of-home placement" means an out-of-home  
23 placement of not more than fourteen days ordered by the court at a  
24 fact-finding hearing on a child in need of services petition.

25 **Sec. 15.** RCW 74.15.020 and 2001 c 230 s 1, 2001 c 144 s 1, and  
26 2001 c 137 s 3 are each reenacted and amended to read as follows:

27 For the purpose of chapter 74.15 RCW and RCW 74.13.031, and unless  
28 otherwise clearly indicated by the context thereof, the following terms  
29 shall mean:

30 (1) "Agency" means any person, firm, partnership, association,  
31 corporation, or facility which receives children, expectant mothers, or  
32 persons with developmental disabilities for control, care, or  
33 maintenance outside their own homes, or which places, arranges the  
34 placement of, or assists in the placement of children, expectant  
35 mothers, or persons with developmental disabilities for foster care or  
36 placement of children for adoption, and shall include the following

1 irrespective of whether there is compensation to the agency or to the  
2 children, expectant mothers or persons with developmental disabilities  
3 for services rendered:

4 (a) "Child day-care center" means an agency which regularly  
5 provides care for a group of children for periods of less than twenty-  
6 four hours;

7 (b) "Child-placing agency" means an agency which places a child or  
8 children for temporary care, continued care, or for adoption;

9 (c) "Community facility" means a group care facility operated for  
10 the care of juveniles committed to the department under RCW 13.40.185.  
11 A county detention facility that houses juveniles committed to the  
12 department under RCW 13.40.185 pursuant to a contract with the  
13 department is not a community facility;

14 (d) "Crisis residential center" means an agency which is a  
15 temporary protective residential facility operated to perform the  
16 duties specified in chapter 13.32A RCW, in the manner provided in RCW  
17 74.13.032 through 74.13.036;

18 (e) "Emergency respite center" is an agency that may be commonly  
19 known as a crisis nursery, that provides emergency and crisis care for  
20 up to seventy-two hours to children who have been admitted by their  
21 parents or guardians to prevent abuse or neglect. Emergency respite  
22 centers may operate for up to twenty-four hours a day, and for up to  
23 seven days a week. Emergency respite centers may provide care for  
24 children ages birth through seventeen, and for persons eighteen through  
25 twenty with developmental disabilities who are admitted with a sibling  
26 or siblings through age seventeen. Emergency respite centers may not  
27 substitute for crisis residential centers or HOPE centers, or any other  
28 services defined under this section, and may not substitute for  
29 services which are required under chapter 13.32A or 13.34 RCW;

30 (f) "Family day-care provider" means a child day-care provider who  
31 regularly provides child day care for not more than twelve children in  
32 the provider's home in the family living quarters;

33 (g) "Foster-family home" means an agency which regularly provides  
34 care on a twenty-four hour basis to one or more children, expectant  
35 mothers, or persons with developmental disabilities in the family abode  
36 of the person or persons under whose direct care and supervision the  
37 child, expectant mother, or person with a developmental disability is  
38 placed;

1 (h) "Group-care facility" means an agency, other than a foster-  
2 family home, which is maintained and operated for the care of a group  
3 of children on a twenty-four hour basis;

4 (i) "HOPE center" means an agency licensed by the secretary to  
5 provide temporary residential placement and other services to street  
6 youth. A street youth may remain in a HOPE center for thirty days  
7 while services are arranged and permanent placement is coordinated. No  
8 street youth may stay longer than thirty days unless approved by the  
9 department and any additional days approved by the department must be  
10 based on the unavailability of a long-term placement option. A street  
11 youth whose parent wants him or her returned to home may remain in a  
12 HOPE center until his or her parent arranges return of the youth, not  
13 longer. All other street youth must have court approval under chapter  
14 13.34 or 13.32A RCW to remain in a HOPE center up to thirty days;

15 (j) "Maternity service" means an agency which provides or arranges  
16 for care or services to expectant mothers, before or during  
17 confinement, or which provides care as needed to mothers and their  
18 infants after confinement;

19 (k) "Responsible living skills program" means an agency licensed by  
20 the secretary that provides residential and transitional living  
21 services to persons ages sixteen to eighteen who are dependent under  
22 chapter 13.34 RCW and who have been unable to live in his or her  
23 legally authorized residence and, as a result, the minor lived outdoors  
24 or in another unsafe location not intended for occupancy by the minor.  
25 Dependent minors ages fourteen and fifteen may be eligible if no other  
26 placement alternative is available and the department approves the  
27 placement;

28 (l) "Service provider" means the entity that operates a community  
29 facility.

30 (2) "Agency" shall not include the following:

31 (a) Persons related to the child, expectant mother, or person with  
32 developmental disability in the following ways:

33 (i) Any blood relative, including those of half-blood, and  
34 including first cousins, nephews or nieces, and persons of preceding  
35 generations as denoted by prefixes of grand, great, or great-great;

36 (ii) Stepfather, stepmother, stepbrother, and stepsister;

37 (iii) A person who legally adopts a child or the child's parent as

1 well as the natural and other legally adopted children of such persons,  
2 and other relatives of the adoptive parents in accordance with state  
3 law;

4 (iv) Spouses of any persons named in (i), (ii), or (iii) of this  
5 subsection (2)(a), even after the marriage is terminated; or

6 (v) Extended family members, as defined by the law or custom of the  
7 Indian child's tribe or, in the absence of such law or custom, a person  
8 who has reached the age of eighteen and who is the Indian child's  
9 grandparent, aunt or uncle, brother or sister, brother-in-law or  
10 sister-in-law, niece or nephew, first or second cousin, or stepparent  
11 who provides care in the family abode on a twenty-four-hour basis to an  
12 Indian child as defined in 25 U.S.C. Sec. 1903(4);

13 (b) Persons who are legal guardians, including guardians appointed  
14 under the provisions of RCW 13.34.232, of the child, expectant mother,  
15 or persons with developmental disabilities;

16 (c) Persons who care for a neighbor's or friend's child or  
17 children, with or without compensation, where: (i) The person  
18 providing care for periods of less than twenty-four hours does not  
19 conduct such activity on an ongoing, regularly scheduled basis for the  
20 purpose of engaging in business, which includes, but is not limited to,  
21 advertising such care; or (ii) the parent and person providing care on  
22 a twenty-four-hour basis have agreed to the placement in writing and  
23 the state is not providing any payment for the care;

24 (d) Parents on a mutually cooperative basis exchange care of one  
25 another's children;

26 (e) A person, partnership, corporation, or other entity that  
27 provides placement or similar services to exchange students or  
28 international student exchange visitors or persons who have the care of  
29 an exchange student in their home;

30 (f) A person, partnership, corporation, or other entity that  
31 provides placement or similar services to international children who  
32 have entered the country by obtaining visas that meet the criteria for  
33 medical care as established by the United States immigration and  
34 naturalization service, or persons who have the care of such an  
35 international child in their home;

36 (g) Nursery schools or kindergartens which are engaged primarily in  
37 educational work with preschool children and in which no child is  
38 enrolled on a regular basis for more than four hours per day;

1 (h) Schools, including boarding schools, which are engaged  
2 primarily in education, operate on a definite school year schedule,  
3 follow a stated academic curriculum, accept only school-age children  
4 and do not accept custody of children;

5 (i) Seasonal camps of three months' or less duration engaged  
6 primarily in recreational or educational activities;

7 (j) Hospitals licensed pursuant to chapter 70.41 RCW when  
8 performing functions defined in chapter 70.41 RCW, nursing homes  
9 licensed under chapter 18.51 RCW and boarding homes licensed under  
10 chapter 18.20 RCW;

11 (k) Licensed physicians or lawyers;

12 (l) Facilities providing care to children for periods of less than  
13 twenty-four hours whose parents remain on the premises to participate  
14 in activities other than employment;

15 (m) Facilities approved and certified under chapter 71A.22 RCW;

16 (n) Any agency having been in operation in this state ten years  
17 prior to June 8, 1967, and not seeking or accepting moneys or  
18 assistance from any state or federal agency, and is supported in part  
19 by an endowment or trust fund;

20 (o) Persons who have a child in their home for purposes of  
21 adoption, if the child was placed in such home by a licensed child-  
22 placing agency, an authorized public or tribal agency or court or if a  
23 replacement report has been filed under chapter 26.33 RCW and the  
24 placement has been approved by the court;

25 (p) An agency operated by any unit of local, state, or federal  
26 government or an agency, located within the boundaries of a federally  
27 recognized Indian reservation, licensed by the Indian tribe;

28 (q) A maximum or medium security program for juvenile offenders  
29 operated by or under contract with the department;

30 (r) An agency located on a federal military reservation, except  
31 where the military authorities request that such agency be subject to  
32 the licensing requirements of this chapter.

33 (3) "Department" means the state department of social and health  
34 services.

35 (4) "Juvenile" means a person under the age of twenty-one who has  
36 been sentenced to a term of confinement under the supervision of the  
37 department under RCW 13.40.185.

1 (5) "Probationary license" means a license issued as a disciplinary  
2 measure to an agency that has previously been issued a full license but  
3 is out of compliance with licensing standards.

4 (6) "Requirement" means any rule, regulation, or standard of care  
5 to be maintained by an agency.

6 (7) "Secretary" means the secretary of social and health services.

7 (8) "Street youth" means a person under the age of eighteen who  
8 lives outdoors or in another unsafe location not intended for occupancy  
9 by the minor and who is not residing with his or her parent or at his  
10 or her legally authorized residence.

11 (9) "Transitional living services" means at a minimum, to the  
12 extent funds are available, the following:

13 (a) Educational services, including basic literacy and  
14 computational skills training, either in local alternative or public  
15 high schools or in a high school equivalency program that leads to  
16 obtaining a high school equivalency degree;

17 (b) Assistance and counseling related to obtaining vocational  
18 training or higher education, job readiness, job search assistance, and  
19 placement programs;

20 (c) Counseling and instruction in life skills such as money  
21 management, home management, consumer skills, parenting, health care,  
22 access to community resources, and transportation and housing options;

23 (d) Individual and group counseling; and

24 (e) Establishing networks with federal agencies and state and local  
25 organizations such as the United States department of labor, employment  
26 and training administration programs including the job training  
27 partnership act which administers private industry councils and the job  
28 corps; vocational rehabilitation; and volunteer programs.

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