
ENGROSSED SUBSTITUTE SENATE BILL 6635

State of Washington

59th Legislature

2006 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Franklin, Benton, Zarelli, Stevens, Honeyford and Rasmussen)

READ FIRST TIME 02/03/06.

1 AN ACT Relating to adoption; amending RCW 26.33.045, 26.33.190,
2 26.33.240, and 26.33.400; adding new sections to chapter 26.33 RCW;
3 creating a new section; and providing an effective date.

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

5 **Sec. 1.** RCW 26.33.045 and 1995 c 270 s 8 are each amended to read
6 as follows:

7 (1) An adoption shall not be delayed or denied on the basis of the
8 race, color, or national origin of the adoptive parent or the child
9 involved. ((However,))

10 (2) When ((the department or an agency considers)) considering
11 whether a placement option is in a child's best interests, the
12 department or agency may consider the cultural, ethnic, or racial
13 background of the child and the capacity of prospective adoptive
14 parents to meet the needs of a child of this background if:

15 (a) A particular child presents specific compelling special
16 circumstances; and

17 (b) Consideration of the child's cultural, ethnic, or racial
18 background is the only way to achieve the best interest of that child.

19 ((This))

1 (3) The department shall create standardized training to be
2 provided to all department or agency employees involved in the
3 placement of a child to assure compliance with Title VI of the civil
4 rights act of 1964 and the multiethnic placement act of 1994, as
5 amended by the interethnic adoption provisions of the small business
6 job protection act of 1996.

7 (4) The provisions of this section shall not apply to or affect the
8 application of the Indian child welfare act of 1978, 25 U.S.C. Sec.
9 1901 et seq.

10 NEW SECTION. Sec. 2. A new section is added to chapter 26.33 RCW
11 to read as follows:

12 (1) The department shall establish and maintain, by rule, a
13 schedule of standard adoption-related fees that may be charged. The
14 fee schedule shall be established in consultation with:

- 15 (a) Adoption advocates;
- 16 (b) Agency representatives;
- 17 (c) Adoption attorneys;
- 18 (d) Child welfare advocates;
- 19 (e) Birth and adoptive parents and adoptees;
- 20 (f) Federally recognized tribes; and
- 21 (g) Superior court judges.

22 (2) Each adoption petition filed pursuant to RCW 26.33.150 seeking
23 adoption of a minor child shall be accompanied by a written disclosure
24 statement containing an itemized accounting of all moneys paid or
25 estimated to be paid by the petitioner for fees, costs, and expenses
26 related to the adoption. The form of the disclosure statement shall be
27 prescribed by the department in consultation with approved adoption
28 agencies licensed in this state.

29 (3) If any adoption-related fees disclosed in an adoption
30 proceeding are in excess of those established pursuant to subsection
31 (1) of this section, the court may forward a copy of the written
32 disclosure statement to the department.

33 NEW SECTION. Sec. 3. A new section is added to chapter 26.33 RCW
34 to read as follows:

35 The department shall, in consultation with adoption advocates,
36 representatives of adoption agencies, adoption attorneys, child-placing

1 agencies, birth and adoptive parents and adoptees, federally recognized
2 tribes, and representatives of the superior court judges, review the
3 fees associated with children adopted out of the foster care system who
4 are dependents of the state of Washington. The review shall include a
5 determination of whether fees or any other factors are barriers to
6 adoptions of children out of the foster care system. The department
7 shall brief the legislature by December 1, 2006, on recommendations
8 related to reducing any barriers that may exist pertaining to the
9 adoption of children who are dependents of the state of Washington.

10 **Sec. 4.** RCW 26.33.190 and 1991 c 136 s 3 are each amended to read
11 as follows:

12 (1) Any person may at any time request an agency, the department,
13 an individual approved by the court, or a qualified salaried court
14 employee to prepare a preplacement report. A certificate signed under
15 penalty of perjury by the person preparing the report specifying his or
16 her qualifications as required in this chapter shall be attached to or
17 filed with each preplacement report and shall include a statement of
18 training or experience that qualifies the person preparing the report
19 to discuss relevant adoption issues. A person may have more than one
20 preplacement report prepared. All preplacement reports shall be filed
21 with the court in which the petition for adoption is filed.

22 (2) The preplacement report shall be a written document setting
23 forth all relevant information relating to the fitness of the person
24 requesting the report as an adoptive parent. The report shall be based
25 on a study which shall include an investigation of the home
26 environment, family life, health, facilities, and resources of the
27 person requesting the report. The report shall include a list of the
28 sources of information on which the report is based. The report shall
29 include a recommendation as to the fitness of the person requesting the
30 report to be an adoptive parent. The report shall also verify that the
31 following issues were discussed with the prospective adoptive parents:

32 (a) The concept of adoption as a lifelong developmental process and
33 commitment;

34 (b) The potential for the child to have feelings of identity
35 confusion and loss regarding separation from the birth parents;

36 (c) Disclosure of the fact of adoption to the child;

1 (d) The child's possible questions about birth parents and
2 relatives; and

3 (e) The relevance of the child's racial, ethnic, and cultural
4 heritage, if considered pursuant to RCW 26.33.045.

5 (3) All preplacement reports shall include an investigation of the
6 conviction record, pending charges, or disciplinary board final
7 decisions of prospective adoptive parents. The investigation shall
8 include an examination of state and national criminal identification
9 data provided by the Washington state patrol criminal identification
10 system as described in chapter 43.43 RCW.

11 (4) An agency, the department, or a court approved individual may
12 charge a reasonable fee based on the time spent in conducting the study
13 and preparing the preplacement report. The court may set a reasonable
14 fee for conducting the study and preparing the report when a court
15 employee has prepared the report. An agency, the department, a court
16 approved individual, or the court may reduce or waive the fee if the
17 financial condition of the person requesting the report so warrants.
18 An agency's, the department's, or court approved individual's, fee is
19 subject to review by the court upon request of the person requesting
20 the report.

21 (5) The person requesting the report shall designate to the agency,
22 the department, the court approved individual, or the court in writing
23 the county in which the preplacement report is to be filed. If the
24 person requesting the report has not filed a petition for adoption, the
25 report shall be indexed in the name of the person requesting the report
26 and a cause number shall be assigned. A fee shall not be charged for
27 filing the report. The applicable filing fee may be charged at the
28 time a petition governed by this chapter is filed. Any subsequent
29 preplacement reports shall be filed together with the original report.

30 (6) A copy of the completed preplacement report shall be delivered
31 to the person requesting the report.

32 (7) A person may request that a report not be completed. A
33 reasonable fee may be charged for the value of work done.

34 **Sec. 5.** RCW 26.33.240 and 1987 c 170 s 8 are each amended to read
35 as follows:

36 (1) After the reports required by section 2 of this act and RCW
37 26.33.190 and 26.33.200 have been filed, the court shall schedule a

1 hearing on the petition for adoption upon request of the petitioner for
2 adoption. Notice of the date, time, and place of hearing shall be
3 given to the petitioner and any person or agency whose consent to
4 adoption is required under RCW 26.33.160, unless the person or agency
5 has waived in writing the right to receive notice of the hearing. If
6 the child is an Indian child, notice shall also be given to the child's
7 tribe. Notice shall be given in the manner prescribed by RCW
8 26.33.310.

9 (2) Notice of the adoption hearing shall also be given to any
10 person who or agency which has prepared a preplacement report. The
11 notice shall be given in the manner prescribed by RCW 26.33.230.

12 (3) If the court determines, after review of the petition,
13 (~~preplacement and post placement~~) reports, and other evidence
14 introduced at the hearing, that all necessary consents to adoption are
15 valid or have been dispensed with pursuant to RCW 26.33.170 and that
16 the adoption is in the best interest of the adoptee, and, in the case
17 of an adoption of an Indian child, that the adoptive parents are within
18 the placement preferences of 25 U.S.C. Sec. 1915 or good cause to the
19 contrary has been shown on the record, the court shall enter a decree
20 of adoption pursuant to RCW 26.33.250.

21 (4) If the court determines the petition should not be granted
22 because the adoption is not in the best interest of the child, the
23 court shall make appropriate provision for the care and custody of the
24 child.

25 **Sec. 6.** RCW 26.33.400 and 1991 c 136 s 6 are each amended to read
26 as follows:

27 (1) Unless the context clearly requires otherwise, "advertisement"
28 means communication by newspaper, radio, television, handbills,
29 placards or other print, broadcast, or the electronic medium. This
30 definition applies throughout this section.

31 (2) No person or entity shall cause to be published for
32 circulation, or broadcast on a radio or television station, within the
33 geographic borders of this state, an advertisement of a child or
34 children offered or wanted for adoption, or shall hold himself or
35 herself out through such advertisement as having the ability to place,
36 locate, dispose, or receive a child or children for adoption unless
37 such person or entity is:

1 (a) A duly authorized agent, contractee, or employee of the
2 department or a children's agency or institution licensed by the
3 department to care for and place children;

4 (b) A person who has a completed preplacement report as set forth
5 in RCW 26.33.190 (1) and (2) or chapter 26.34 RCW with a favorable
6 recommendation as to the fitness of the person to be an adoptive
7 parent, or such person's duly authorized uncompensated agent, or such
8 person's attorney who is licensed to practice in the state.
9 Verification of compliance with the requirements of this section shall
10 consist of a written declaration by the person or entity who prepared
11 the preplacement report.

12 Nothing in this section prohibits an attorney licensed to practice
13 in Washington state from advertising his or her availability to
14 practice or provide services related to the adoption of children.

15 (3)~~(a)~~ A violation of subsection (2) of this section is a matter
16 affecting the public interest ~~((for the purpose of applying chapter~~
17 ~~19.86 RCW. A violation of subsection (2) of this section is not~~
18 ~~reasonable in relation to the development and preservation of business.~~
19 ~~A violation of subsection (2) of this section))~~ and constitutes an
20 unfair or deceptive act or practice in trade or commerce for the
21 purpose of applying chapter 19.86 RCW.

22 (b) The attorney general may bring an action in the name of the
23 state against any person violating the provisions of this section in
24 accordance with the provisions of RCW 19.86.080.

25 (c) Nothing in this section applies to any radio or television
26 station or any publisher, printer, or distributor of any newspaper,
27 magazine, billboard, or other advertising medium which accepts
28 advertising in good faith without knowledge of its violation of any
29 provision of this section after an attempt to verify the advertising is
30 in compliance with this section.

31 NEW SECTION. Sec. 7. A new section is added to chapter 26.33 RCW
32 to read as follows:

33 It is prohibited in the state of Washington for any entity engaged
34 in any service related to the adoption of children to operate as a for-
35 profit entity.

1 NEW SECTION. **Sec. 8.** Sections 1 through 7 of this act take effect
2 January 1, 2007.

3 NEW SECTION. **Sec. 9.** The secretary of the department of social
4 and health services may take the necessary steps to ensure that this
5 act is implemented on its effective date.

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