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HOUSE BILL 1780

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State of Washington                      60th Legislature                      2007 Regular Session

By Representatives Kagi, Walsh, McIntire, Fromhold, Moeller, P. Sullivan, Hunt, Flannigan, Pettigrew, Appleton, Darneille, Kenney, Dickerson, Simpson, Wood, Haler, Santos and Ormsby

Read first time 01/26/2007. Referred to Committee on Judiciary.

1            AN ACT Relating to creation of a statewide family court; amending  
2 RCW 26.12.010, 26.12.190, 26.12.230, 13.04.021, and 13.40.010;  
3 reenacting and amending RCW 13.04.030; adding new sections to chapter  
4 2.08 RCW; creating new sections; repealing RCW 26.12.020, 26.12.060,  
5 26.12.800, 26.12.802, and 26.12.804; and providing an effective date.

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

7            NEW SECTION.    **Sec. 1.** It is the intent of the legislature to  
8 consolidate the areas in the legal system that involve children and  
9 families to better serve the legal and social needs of the families.  
10 The goal is to enable families to address issues that may arise in the  
11 future with minimal legal intervention. Family court has long been  
12 recognized as a potential means of serving the legal and social needs  
13 of families. It is the intent of the legislature to support the use  
14 and success of family court through means such as judicial training,  
15 longer judicial rotations, and provision of needed services to the  
16 families.

17            NEW SECTION.    **Sec. 2.** A new section is added to chapter 2.08 RCW  
18 to read as follows:

1 (1) A state of Washington family court is established in each  
2 county or judicial district of the state as a division of the superior  
3 court system for the state, unless otherwise provided for by law.

4 (2) Family court judges are superior court judges.

5 (3) All family court judicial officers must obtain training as  
6 required in section 3 of this act.

7 NEW SECTION. **Sec. 3.** A new section is added to chapter 2.08 RCW  
8 to read as follows:

9 The supreme court is requested to provide by rule for the  
10 following:

11 (1) The administration of the family court;

12 (2) The term of rotation and required training for judicial  
13 officers who will serve as family court judges. The term of rotation  
14 for a family court judicial officer shall not be less than three years.  
15 It is recommended that the training include, but not be limited to, the  
16 following areas:

17 (a) All orders prohibiting or restricting contact between parties;

18 (b) Dissolution of marriage;

19 (c) Custody of children;

20 (d) Child support;

21 (e) Spousal support;

22 (f) Modification of support;

23 (g) Psychological and counseling aspects of dissolution of  
24 marriage;

25 (h) Adoption;

26 (i) Paternity litigation;

27 (j) Proceedings to free a minor from the custody and control of a  
28 parent or parents, including dependency and termination of parental  
29 rights;

30 (k) Domestic violence;

31 (l) Guardianships;

32 (m) Child abuse and neglect;

33 (n) Childhood development;

34 (o) Cultural awareness;

35 (p) Mental illness;

36 (q) Substance abuse;

1 (r) Contempt proceedings, enforcement, mediation, and/or  
2 negotiation involving any of the areas listed in this subsection; and  
3 (3) The minimum hours of continuing education relating to family  
4 court or family law issues required of judicial officers in family  
5 court.

6 **Sec. 4.** RCW 26.12.010 and 1999 c 397 s 6 are each amended to read  
7 as follows:

8 Unless otherwise provided by law, each superior court shall have a  
9 division referred to as the family court to exercise the jurisdiction  
10 conferred by this chapter ((and while sitting in the exercise of such  
11 jurisdiction shall be known and referred to as the "family court.")).  
12 A family court proceeding under this chapter is((:—(1))) any  
13 proceeding under this title or any proceeding in which the family court  
14 is requested to adjudicate or enforce the rights of the parties or  
15 their children regarding ((the determination or modification of  
16 parenting plans, child custody, visitation, or support, or the  
17 distribution of property or obligations, or (2) concurrent with the  
18 juvenile court, any proceeding under Title 13 or chapter 28A.225 RCW))  
19 proceedings in RCW 26.12.190.

20 **Sec. 5.** RCW 26.12.190 and 1991 c 367 s 14 are each amended to read  
21 as follows:

22 (1) The family court shall have jurisdiction ((and full power in  
23 all pending cases to make, alter, modify, and enforce all temporary and  
24 permanent orders regarding the following: Parenting plans, child  
25 support, custody of children, visitation, possession of property,  
26 maintenance, contempt, custodial interference, and orders for  
27 attorneys' fees, suit money or costs as may appear just and equitable.  
28 Court commissioners or judges)) to hear and dispose of the following  
29 proceedings:

- 30 (a) Dissolution of marriage;
- 31 (b) Child custody;
- 32 (c) Visitation;
- 33 (d) Maintenance and support;
- 34 (e) Equitable distribution of property in dissolution cases;
- 35 (f) Adoption;
- 36 (g) Termination of parental rights;

1        (h) Domestic violence and abuse proceedings under chapter 26.50  
2 RCW;  
3        (i) Proceedings under the uniform act on paternity and the uniform  
4 interstate family support act;  
5        (j) Dependency, neglect, and abuse proceedings;  
6        (k) Emancipation of minors;  
7        (l) Truancy, at-risk youth, and child in need of services  
8 proceedings; and  
9        (m) Juvenile offenders proceedings.

10        (2) Judicial officers shall not have authority to require the  
11 parties to mediate disputes concerning child support.

12        ~~((+2))~~ (3) Family court investigation, evaluation, mediation,  
13 treatment, and reconciliation services, and any other services may be  
14 used to assist the court to develop an order as the court deems  
15 necessary to preserve the marriage, implement an amicable settlement,  
16 and resolve the issues in controversy.

17        **Sec. 6.** RCW 26.12.230 and 1986 c 95 s 3 are each amended to read  
18 as follows:

19        (1) Any county may contract under chapter 39.34 RCW with any other  
20 county or counties to provide joint family court and family court  
21 services. Any county contracting with any other county to provide  
22 family court under this section is not required to establish a separate  
23 family court within its county as otherwise required in section 2 of  
24 this act.

25        (2) Any agreement between two or more counties for the operation of  
26 a joint family court service may provide that the treasurer of one  
27 participating county shall be the custodian of moneys made available  
28 for the purposes of the joint services, and that the treasurer may make  
29 payments from the moneys upon proper authorization.

30        (3) Any agreement between two or more counties for the operation of  
31 a joint family court service may also provide:

32        (a) For the joint provision or operation of services and facilities  
33 or for the provision or operation of services and facilities by one  
34 participating county under contract for the other participating  
35 counties;

36        (b) For appointments of members of the staff of the family court  
37 including the supervising counselor;

1 (c) That, for specified purposes, the members of the staff of the  
2 family court including the supervising counselor, but excluding the  
3 ((judges)) judicial officers of the family court and other court  
4 personnel, shall be considered to be employees of one participating  
5 county;

6 (d) For other matters as are necessary to carry out the purposes of  
7 this chapter.

8 (4) The provisions of this chapter relating to family court  
9 services provided by a single county are equally applicable to counties  
10 which contract, under this section, to provide joint family court  
11 services.

12 **Sec. 7.** RCW 13.04.021 and 1999 c 397 s 5 are each amended to read  
13 as follows:

14 ~~((1) The juvenile court shall be a division of the superior court.  
15 In judicial districts having more than one judge of the superior court,  
16 the judges of such court shall annually assign one or more of their  
17 number to the juvenile court division. In any judicial district having  
18 a court commissioner, the court commissioner shall have the power,  
19 authority, and jurisdiction, concurrent with a juvenile court judge, to  
20 hear all cases under this chapter and to enter judgment and make orders  
21 with the same power, force, and effect as any judge of the juvenile  
22 court, subject to motion or demand by any party within ten days from  
23 the entry of the order or judgment by the court commissioner as  
24 provided in RCW 2.24.050. In any judicial district having a family law  
25 commissioner appointed pursuant to chapter 26.12 RCW, the family law  
26 commissioner shall have the power, authority, and jurisdiction,  
27 concurrent with a juvenile court judge, to hear cases under Title 13  
28 RCW and chapter 28A.225 RCW as provided in RCW 26.12.010, and to enter  
29 judgment and make orders with the same power, force, and effect as any  
30 judge of the juvenile court, subject to motion or demand by any party  
31 within ten days from the entry of the order or judgment by the court  
32 commissioner as provided in RCW 2.24.050.~~

33 ~~(2))~~ Cases in the ((juvenile)) family court shall be tried without  
34 a jury.

35 **Sec. 8.** RCW 13.04.030 and 2005 c 290 s 1 and 2005 c 238 s 1 are  
36 each reenacted and amended to read as follows:

1 (1) Except as provided in this section, the ((juvenile)) family  
2 courts in this state shall have exclusive original jurisdiction over  
3 all proceedings:

4 (a) Under the interstate compact on placement of children as  
5 provided in chapter 26.34 RCW;

6 (b) Relating to children alleged or found to be dependent as  
7 provided in chapter 26.44 RCW and in RCW 13.34.030 through  
8 ((13.34.170)) 13.34.161;

9 (c) Relating to the termination of a parent and child relationship  
10 as provided in RCW 13.34.180 through 13.34.210;

11 (d) To approve or disapprove out-of-home placement as provided in  
12 RCW 13.32A.170;

13 (e) Relating to juveniles alleged or found to have committed  
14 offenses, traffic or civil infractions, or violations as provided in  
15 RCW 13.40.020 through 13.40.230, unless:

16 (i) The ((juvenile)) family court transfers jurisdiction of a  
17 particular juvenile to adult criminal court pursuant to RCW 13.40.110;

18 (ii) The statute of limitations applicable to adult prosecution for  
19 the offense, traffic or civil infraction, or violation has expired;

20 (iii) The alleged offense or infraction is a traffic, fish,  
21 boating, or game offense, or traffic or civil infraction committed by  
22 a juvenile sixteen years of age or older and would, if committed by an  
23 adult, be tried or heard in a court of limited jurisdiction, in which  
24 instance the appropriate court of limited jurisdiction shall have  
25 jurisdiction over the alleged offense or infraction, and no guardian ad  
26 litem is required in any such proceeding due to the juvenile's age:

27 PROVIDED, That if such an alleged offense or infraction and an alleged  
28 offense or infraction subject to ((juvenile)) family court jurisdiction  
29 arise out of the same event or incident, the ((juvenile)) family court  
30 may have jurisdiction of both matters: PROVIDED FURTHER, That the  
31 jurisdiction under this subsection does not constitute "transfer" or a  
32 "decline" for purposes of RCW 13.40.110(1) or (e)(i) of this  
33 subsection: PROVIDED FURTHER, That courts of limited jurisdiction  
34 which confine juveniles for an alleged offense or infraction may place  
35 juveniles in juvenile detention facilities under an agreement with the  
36 officials responsible for the administration of the juvenile detention  
37 facility in RCW 13.04.035 and 13.20.060;

1 (iv) The alleged offense is a traffic or civil infraction, a  
2 violation of compulsory school attendance provisions under chapter  
3 28A.225 RCW, or a misdemeanor, and a court of limited jurisdiction has  
4 assumed concurrent jurisdiction over those offenses as provided in RCW  
5 13.04.0301; or

6 (v) The juvenile is sixteen or seventeen years old on the date the  
7 alleged offense is committed and the alleged offense is:

8 (A) A serious violent offense as defined in RCW 9.94A.030;

9 (B) A violent offense as defined in RCW 9.94A.030 and the juvenile  
10 has a criminal history consisting of: (I) One or more prior serious  
11 violent offenses; (II) two or more prior violent offenses; or (III)  
12 three or more of any combination of the following offenses: Any class  
13 A felony, any class B felony, vehicular assault, or manslaughter in the  
14 second degree, all of which must have been committed after the  
15 juvenile's thirteenth birthday and prosecuted separately;

16 (C) Robbery in the first degree, rape of a child in the first  
17 degree, or drive-by shooting, committed on or after July 1, 1997;

18 (D) Burglary in the first degree committed on or after July 1,  
19 1997, and the juvenile has a criminal history consisting of one or more  
20 prior felony or misdemeanor offenses; or

21 (E) Any violent offense as defined in RCW 9.94A.030 committed on or  
22 after July 1, 1997, and the juvenile is alleged to have been armed with  
23 a firearm.

24 (I) In such a case the adult criminal court shall have exclusive  
25 original jurisdiction, except as provided in (e)(v)(E)(II) of this  
26 subsection.

27 (II) The ((juvenile)) family court shall have exclusive  
28 jurisdiction over the disposition of any remaining charges in any case  
29 in which the juvenile is found not guilty in the adult criminal court  
30 of the charge or charges for which he or she was transferred, or is  
31 convicted in the adult criminal court of a lesser included offense that  
32 is not also an offense listed in (e)(v) of this subsection. The  
33 ((juvenile)) family court shall enter an order extending ((juvenile))  
34 family court jurisdiction if the juvenile has turned eighteen years of  
35 age during the adult criminal court proceedings pursuant to RCW  
36 13.40.300. However, once the case is returned to ((juvenile)) family  
37 court, the court may hold a decline hearing pursuant to RCW 13.40.110

1 to determine whether to retain the case in ((juvenile)) family court  
2 for the purpose of disposition or return the case to adult criminal  
3 court for sentencing.

4 If the juvenile challenges the state's determination of the  
5 juvenile's criminal history under (e)(v) of this subsection, the state  
6 may establish the offender's criminal history by a preponderance of the  
7 evidence. If the criminal history consists of adjudications entered  
8 upon a plea of guilty, the state shall not bear a burden of  
9 establishing the knowing and voluntariness of the plea;

10 (f) Under the interstate compact on juveniles as provided in  
11 chapter 13.24 RCW;

12 (g) Relating to termination of a diversion agreement under RCW  
13 13.40.080, including a proceeding in which the divertee has attained  
14 eighteen years of age;

15 (h) Relating to court validation of a voluntary consent to an out-  
16 of-home placement under chapter 13.34 RCW, by the parent or Indian  
17 custodian of an Indian child, except if the parent or Indian custodian  
18 and child are residents of or domiciled within the boundaries of a  
19 federally recognized Indian reservation over which the tribe exercises  
20 exclusive jurisdiction;

21 (i) Relating to petitions to compel disclosure of information filed  
22 by the department of social and health services pursuant to RCW  
23 74.13.042; and

24 (j) Relating to judicial determinations and permanency planning  
25 hearings involving ((developmentally disabled)) children with  
26 developmental disabilities who have been placed in out-of-home care  
27 pursuant to a voluntary placement agreement between the child's parent,  
28 guardian, or legal custodian and the department of social and health  
29 services.

30 ~~(2) ((The family court shall have concurrent original jurisdiction~~  
31 ~~with the juvenile court over all proceedings under this section if the~~  
32 ~~superior court judges of a county authorize concurrent jurisdiction as~~  
33 ~~provided in RCW 26.12.010.~~

34 ~~(3) The juvenile court shall have concurrent original jurisdiction~~  
35 ~~with the family court over child custody proceedings under chapter~~  
36 ~~26.10 RCW as provided for in RCW 13.34.155.~~

37 (4)) A juvenile subject to adult superior court jurisdiction under



1 subsection (1)(e)(i) through (v) of this section, who is detained  
2 pending trial, may be detained in a detention facility as defined in  
3 RCW 13.40.020 pending sentencing or a dismissal.

4 **Sec. 9.** RCW 13.40.010 and 2004 c 120 s 1 are each amended to read  
5 as follows:

6 (1) This chapter shall be known and cited as the Juvenile Justice  
7 Act of 1977.

8 (2) It is the intent of the legislature that ((a)) family court be  
9 the system ((~~capable of~~)) having primary responsibility for, being  
10 accountable for, and responding to the needs of youthful offenders and  
11 their victims, as defined by this chapter((~~, be established~~)). It is  
12 the further intent of the legislature that youth, in turn, be held  
13 accountable for their offenses and that communities, families, and the  
14 ((~~juvenile~~)) family courts carry out their functions consistent with  
15 this intent. To effectuate these policies, the legislature declares  
16 the following to be equally important purposes of this chapter:

17 (a) Protect the citizenry from criminal behavior;

18 (b) Provide for determining whether accused juveniles have  
19 committed offenses as defined by this chapter;

20 (c) Make the juvenile offender accountable for his or her criminal  
21 behavior;

22 (d) Provide for punishment commensurate with the age, crime, and  
23 criminal history of the juvenile offender;

24 (e) Provide due process for juveniles alleged to have committed an  
25 offense;

26 (f) Provide necessary treatment, supervision, and custody for  
27 juvenile offenders;

28 (g) Provide for the handling of juvenile offenders by communities  
29 whenever consistent with public safety;

30 (h) Provide for restitution to victims of crime;

31 (i) Develop effective standards and goals for the operation,  
32 funding, and evaluation of all components of the juvenile justice  
33 system and related services at the state and local levels;

34 (j) Provide for a clear policy to determine what types of offenders  
35 shall receive punishment, treatment, or both, and to determine the  
36 jurisdictional limitations of the courts, institutions, and community  
37 services;

1 (k) Provide opportunities for victim participation in juvenile  
2 justice process, including court hearings on juvenile offender matters,  
3 and ensure that Article I, section 35 of the Washington state  
4 Constitution, the victim bill of rights, is fully observed; and

5 (l) Encourage the parents, guardian, or custodian of the juvenile  
6 to actively participate in the juvenile justice process.

7 NEW SECTION. **Sec. 10.** In calendar year 2007, for use beginning in  
8 fiscal year 2008, the Washington state institute for public policy  
9 shall conduct a study on court-ordered services for families in the  
10 state. The institute shall review services ordered by the court in  
11 dependency, termination of parental rights, juvenile offender, and  
12 juvenile status offense proceedings. The institute shall then compare  
13 those services ordered by the court to the availability of the services  
14 within the state, the ability of families to access the services due to  
15 resources, transportation, or other issues, and the gaps in services  
16 that exist between what is ordered by the court and what is available  
17 to the families. The institute shall provide a report on its findings  
18 to the appropriate committees of the legislature by December 1, 2007.

19 NEW SECTION. **Sec. 11.** The code reviser shall prepare a bill for  
20 introduction in the 2008 legislative session that incorporates any  
21 section enacted or affected by the 2007 legislative session that does  
22 not take cognizance of the reorganization adopted by this act, and that  
23 corrects any cross-references changed by this act. The bill shall also  
24 change references to "juvenile court" in the Revised Code of Washington  
25 to "family court" as necessary and appropriate to give full effect to  
26 this act.

27 NEW SECTION. **Sec. 12.** Sections 2 and 4 through 9 of this act take  
28 effect July 1, 2009.

29 NEW SECTION. **Sec. 13.** The following acts or parts of acts are  
30 each repealed:

31 (1) RCW 26.12.020 (Designation of judge--Number of sessions) and  
32 1949 c 50 s 2;

33 (2) RCW 26.12.060 (Court commissioners--Duties) and 1999 c 397 s 7,  
34 1993 c 289 s 3, 1991 c 367 s 12, 1988 c 232 s 4, & 1949 c 50 s 6;

1           (3) RCW 26.12.800 (Family court pilot program--Legislative  
2 recognition) and 1999 c 397 s 1;

3           (4) RCW 26.12.802 (Family court pilot program--Created) and 2005 c  
4 282 s 31 & 1999 c 397 s 2; and

5           (5) RCW 26.12.804 (Family court pilot program--Rules) and 2005 c  
6 282 s 32 & 1999 c 397 s 3.

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