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**SUBSTITUTE HOUSE BILL 2846**

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**State of Washington**

**60th Legislature**

**2008 Regular Session**

**By** House Early Learning & Children's Services (originally sponsored by Representatives Kagi, Kenney, and Dickerson)

READ FIRST TIME 02/05/08.

1           AN ACT Relating to voluntary out-of-home placement agreements to  
2 provide residential treatment for adoptive children in crisis; amending  
3 RCW 74.13.080; adding new sections to chapter 74.13 RCW; and adding a  
4 new section to chapter 13.34 RCW.

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

6           NEW SECTION.   **Sec. 1.** A new section is added to chapter 74.13 RCW  
7 to read as follows:

8           The legislature finds that the state has a compelling interest in  
9 encouraging adoption of children from foster care. The legislature  
10 also finds that children adopted out of the foster care system often  
11 have particular or unique needs as a result of their life experiences.  
12 These needs may emerge, in part, as a result of the adoption process  
13 and may intensify as children enter the sometimes turbulent  
14 developmental period of adolescence. The legislature also finds that  
15 adoptive families may from time to time require intensive supports to  
16 meet the mental and behavioral needs of their adoptive children,  
17 including the need for access to residential treatment for adoptive  
18 children. The legislature further finds that residential treatment  
19 provided at the appropriate time can stabilize children and ultimately

1 preserve adoptions. The availability of voluntary agreements for the  
2 provision of residential treatment also serves to demonstrate the  
3 state's commitment to promoting successful and enduring adoptions of  
4 children from the foster care system.

5 The legislature intends to authorize limited voluntary placement  
6 agreements for the purpose of responding to children adopted from the  
7 foster care system who may have severe mental health or behavioral  
8 health needs. These limited voluntary placement agreements are  
9 intended to be initiated only when the sole reason for the out-of-home  
10 placement is the adoptive child's mental health or behavioral health  
11 needs and when the child's behavioral and functional difficulties  
12 exceed the parent's ability to effectively and safely manage and meet  
13 the child's needs.

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

16 (1) The definitions in this subsection apply throughout this  
17 section unless the context clearly requires otherwise.

18 (a) "Adopted" means that a valid decree of adoption regarding the  
19 child and parent was entered and remains intact in Washington or in  
20 another jurisdiction.

21 (b) "Child" means any child under the age of eighteen who was found  
22 to be dependent, placed in out-of-home care, and subsequently was  
23 adopted from an out-of-home placement.

24 (c) "Licensed facility" means a facility licensed under chapter  
25 74.15 RCW to provide residential evaluation and treatment services for  
26 children.

27 (d) "Parent" means the adoptive and legal parent of a child  
28 according to the terms of a valid decree of adoption, or the legal  
29 guardian of an adopted child.

30 (e) "Voluntary placement agreement" means a written agreement  
31 between the department and a child's parent authorizing the department  
32 to place the child in a licensed facility for the purpose of receiving  
33 mental health or behavioral health treatment intended to stabilize the  
34 child's functioning and support the child's return home. Under the  
35 terms of a voluntary placement agreement, the parent retains legal  
36 custody of the child while the department temporarily assumes  
37 responsibility for the child's placement and care.

1 (2) A parent may request and the department may agree to enter into  
2 a voluntary placement agreement whenever the following conditions are  
3 met:

4 (a) The child resides in Washington state;

5 (b) Less intensive and traditional family preservation services,  
6 community resources, and/or adoption supports have been unsuccessful or  
7 are not likely to be successful in stabilizing the child's behavior and  
8 functioning; and

9 (c) The parent has no reasonable alternative to access the level of  
10 care necessary to meet the child's needs and preserve the adoption.

11 (3)(a) Whenever the department assumes responsibility for the  
12 placement and care of a child under this section, the department, in  
13 consultation with the child, the child's parent, and a mental health  
14 professional, shall develop a plan for the child's eventual return  
15 home. If the plan anticipates the child will remain in out-of-home  
16 care one hundred eighty days or longer, or if at any time it appears  
17 the child will remain in out-of-home care longer than one hundred  
18 eighty days, the department and the parent shall jointly seek a  
19 judicial determination that the agreement is in the child's best  
20 interests. If the child exits the out-of-home placement before one  
21 hundred eighty days have elapsed, no judicial determination is  
22 required.

23 (b) To obtain the judicial determination required under this  
24 section, the department and the parent shall file a joint petition  
25 alleging there is located or residing within the county a child who was  
26 adopted from the foster care system whose current behavioral health or  
27 mental health needs can not be met adequately by the child's parent,  
28 and that as a result the child has been placed in out-of-home care  
29 pursuant to this section. The petition shall request that the court  
30 conduct periodic reviews of the child's placement and make a  
31 determination whether continued placement is in the best interests of  
32 the child. The petition shall contain the name, date of birth, and  
33 residence of the child and the names and residences of the child's  
34 parent or legal guardian who has consented to the voluntary placement  
35 agreement. The department shall make reasonable attempts to ascertain  
36 and set forth in the petition the identity, location, and custodial  
37 status of any parent who is not a party to the placement agreement and

1 reasons why that parent cannot assume placement and care authority of  
2 the child.

3 (c) Permanency planning for the child shall be the joint  
4 responsibility of the department and the parent.

5 (4) A written agreement under this section must specify the legal  
6 status of the child and the rights and obligations of the parent, the  
7 child, and the department while the child is in the licensed facility.  
8 Any party to the agreement may terminate the agreement at any time by  
9 providing advance notice to the other party and to the child if he or  
10 she is thirteen years of age or older. Upon termination of the  
11 agreement, the child must be returned to the care of his or her parent  
12 unless the child has been taken into custody pursuant to RCW 13.34.050  
13 or 26.44.050, placed in shelter care pursuant to RCW 13.34.060, or  
14 placed in foster care pursuant to RCW 13.34.130.

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

17 (1) The legislature finds that as a condition of the state's  
18 receipt of federal funds for foster care under Title IV-B and Title IV-  
19 E of the social security act, all children in foster care must be  
20 subjected to periodic court review. Unfortunately, this requirement  
21 includes children who were adopted out of foster care and who  
22 subsequently are temporarily returned to a foster care placement solely  
23 because their parents have determined that the child's mental health or  
24 behavioral health service needs require an out-of-home placement.  
25 Except for providing such needed services, the parents of these  
26 children are completely competent to care for the children. The  
27 legislature intends that court review of out-of-home placements  
28 pursuant to section 2 of this act be structured to minimize the stress  
29 and inconvenience to families caused by complying with these federal  
30 requirements.

31 (2) Upon filing of the petition required under section 2 of this  
32 act, the clerk of the court shall schedule the petition for a hearing  
33 to be held no later than fourteen calendar days after the petition has  
34 been filed. The department shall provide notification of the time,  
35 date, and purpose of the hearing to the parent or legal guardian who  
36 has agreed to the child's placement in out-of-home care. The  
37 department shall also make reasonable attempts to notify any parent who

1 is not a party to the placement agreement, if the parent's identity and  
2 location are known. Notification under this section may be given by  
3 the most expedient means, including but not limited to mail, personal  
4 service, and telephone.

5 **Sec. 4.** RCW 74.13.080 and 1987 c 170 s 11 are each amended to read  
6 as follows:

7 Except as provided in RCW 74.13.350 and section 2 of this act, the  
8 department shall not make payment for any child in group care placement  
9 unless the group home is licensed and the department has the (~~custody~~  
10 ~~of~~) placement and care authority for the child under a court order or  
11 a voluntary placement agreement and the authority to remove the child  
12 in a cooperative manner after at least seventy-two hours notice to the  
13 child care provider; such notice may be waived in emergency situations.  
14 However, this requirement shall not be construed to prohibit the  
15 department from making or mandate the department to make payment for  
16 Indian children placed in facilities licensed by federally recognized  
17 Indian tribes pursuant to chapter 74.15 RCW.

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