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HOUSE BILL 2846

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State of Washington

60th Legislature

2008 Regular Session

By Representatives Kagi, Kenney, and Dickerson

Read first time 01/16/08. Referred to Committee on Early Learning & Children's Services.

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 71.34 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 severe mental and  
7 behavioral health needs of children adopted from the foster care  
8 system. These limited voluntary placement agreements are intended to  
9 be initiated only when the sole reason for the out-of-home placement is  
10 the adoptive child's mental or behavioral health needs and when the  
11 child's behavioral difficulties exceed the parent's ability to  
12 effectively and safely manage the child.

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

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

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

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

23 (c) "Licensed facility" means a facility licensed under this  
24 chapter to provide residential evaluation and treatment services for  
25 children or an "evaluation and treatment facility" as defined in RCW  
26 71.34.020.

27 (d) "Medical necessity" means a requested service which is  
28 reasonably calculated to: (i) Diagnose, correct, cure, or alleviate a  
29 mental or behavioral disorder; or (ii) prevent the worsening of mental  
30 conditions that endanger life or cause suffering and pain, or result in  
31 illness or infirmity or threaten to cause or aggravate a handicap, or  
32 cause physical deformity or malfunction, and there is no less  
33 restrictive nonresidential alternative available to meet the child's  
34 needs.

35 (e) "Mental health professional" means a person licensed by the  
36 Washington state department of health to provide mental or behavioral

1 health counseling and treatment and whose practice is regulated under  
2 Title 18 RCW.

3 (f) "Parent" means the adoptive and legal parent of a child  
4 according to the terms of a valid decree of adoption, or the legal  
5 guardian of an adopted child.

6 (g) "Voluntary placement agreement" means a written agreement  
7 between the department and a child's parent authorizing the department  
8 to place the child in a licensed facility for the purpose of receiving  
9 mental or behavioral health treatment intended to stabilize the child's  
10 functioning and support the child's return home. Under the terms of a  
11 voluntary placement agreement, the parent retains legal custody of the  
12 child while the department temporarily assumes responsibility for the  
13 child's placement and treatment.

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

17 (a) A mental health professional determines that temporary  
18 placement of the child in a licensed facility is a medical necessity;

19 (b) Less intensive and/or traditional adoption supports have been  
20 unsuccessful or are not likely to be successful, as determined by a  
21 mental health professional, in stabilizing the child's behavior and  
22 functioning; and

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

25 (3) Notwithstanding any provision to the contrary, the procedures  
26 in chapter 71.34 RCW for parent-initiated treatment apply whenever a  
27 child who is age thirteen years or older does not consent to the terms  
28 of a voluntary placement agreement.

29 (4) Whenever the department assumes responsibility for the  
30 placement and care of a child under this section, the department, in  
31 consultation with the child, the child's parent, and a mental health  
32 professional shall develop a plan for the child's eventual return home.  
33 If the plan anticipates the child will remain in out-of-home care one  
34 hundred eighty days or longer, the department and the parent shall  
35 jointly seek a judicial determination that the agreement is in the  
36 child's best interests. If the child exits the out-of-home placement  
37 before one hundred eighty days have elapsed, no judicial determination  
38 is required. Permanency planning for the child shall be the joint

1 responsibility of the department and the parent, and shall include  
2 consultation with a mental health professional familiar with the child,  
3 and to the extent appropriate, shall also include the child.

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

14 (6) The department must provide for periodic administrative reviews  
15 as required by state or federal law. A review of the agreement may be  
16 requested at any time by the department, the parent, or the child if he  
17 or she is age thirteen years or older.

18 NEW SECTION. **Sec. 3.** A new section is added to chapter 71.34 RCW  
19 to read as follows:

20 Notwithstanding any provision to the contrary, the department shall  
21 be responsible for the costs of treatment to a child who is accessing  
22 services under the terms of a voluntary placement agreement as defined  
23 in section 2 of this act.

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

26 Except as provided in RCW 74.13.350 and section 2 of this act, the  
27 department shall not make payment for any child in group care placement  
28 unless the group home is licensed and the department has the custody of  
29 the child and the authority to remove the child in a cooperative manner  
30 after at least seventy-two hours notice to the child care provider;  
31 such notice may be waived in emergency situations. However, this  
32 requirement shall not be construed to prohibit the department from  
33 making or mandate the department to make payment for Indian children  
34 placed in facilities licensed by federally recognized Indian tribes

1 pursuant to chapter 74.15 RCW.

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