
SENATE BILL 5573

State of Washington

62nd Legislature

2011 Regular Session

By Senators Pridemore, Kline, Delvin, and Shin

Read first time 01/31/11. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to shared parenting and out-of-home placement
2 program; adding a new chapter to Title 71A RCW; and repealing RCW
3 74.13.350.

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

5 NEW SECTION. **Sec. 1.** The legislature recognizes that parents are
6 responsible for the care and support of their children with
7 developmental disabilities. The legislature also recognizes that, in
8 some cases, the intense support required to care for a child with
9 developmental disabilities may cause undue caregiver stress and
10 burnout, causing the family to request an out-of-home placement.

11 It is the intent of the legislature that, when the sole reason for
12 the out-of-home placement is the child's developmental disability, such
13 services be offered by the department to these children and their
14 families through a shared parenting placement agreement. In these
15 cases, the parents shall retain legal custody of the child.

16 The legislature intends that out-of-home services assisting
17 children with disabilities and their families should be available in
18 the most integrated setting appropriate to individual needs, consistent

1 with the mandate of the Americans with disabilities act and the
2 regulations adopted thereto, as interpreted by the United States
3 supreme court in *Olmstead v. L.C.*, 527 U.S. 581 (1999).

4 It is the intent of the legislature that all children with
5 developmental disabilities who are placed out of home shall receive
6 services through a shared parenting placement agreement, except those
7 children with developmental disabilities in foster care because of
8 abuse, neglect, or exploitation.

9 NEW SECTION. **Sec. 2.** The definitions in this section apply
10 throughout this chapter unless the context clearly requires otherwise.

11 (1) "Child" means a person age twenty-one years or younger who has
12 intellectual or developmental disabilities and is eligible for services
13 under Title 71A RCW.

14 (2) "Department" means the department of social and health
15 services.

16 (3) "Developmental disability assessment" means an annual
17 assessment administered to clients of the department who are eligible
18 and receiving services under Title 71A RCW.

19 (4) "Out-of-home placement" and "out-of-home care" means the
20 placement of a child in a foster family home or group care facility
21 licensed under chapter 74.15 RCW, a certified resident program under
22 Title 71A RCW, or a residential habilitation center.

23 (5) "Shared parenting placement agreement" means a written
24 agreement between a child's parent or legal guardian and the department
25 authorizing the department to place the child in a licensed or
26 certified facility or program.

27 NEW SECTION. **Sec. 3.** (1) Under the terms of a shared parenting
28 placement agreement, the parent or legal guardian shall retain legal
29 custody of the child. The parent or legal guardian shall share
30 parenting responsibilities as outlined in the shared parenting
31 placement agreement.

32 (2) The shared parenting placement agreement must, at a minimum,
33 specify the legal status of the child and the rights and obligations of
34 the parent or legal guardian, including any education and training the
35 parent or legal guardian needs to support the child in home, and the

1 rights and obligations of the department while the child is in
2 placement.

3 (3) The agreement must be signed by the child's parent or legal
4 guardian and the department in order to take effect, except that an
5 agreement regarding an Indian child is not valid unless executed in
6 writing before the court and filed with the court as provided in RCW
7 13.34.245.

8 (4) Any party to a shared parenting placement agreement may
9 terminate the agreement at any time. Upon termination of the
10 agreement, the child must be returned to the care of the child's parent
11 or legal guardian, unless the child has been taken into custody
12 pursuant to RCW 13.34.050 or 26.44.050, placed in shelter care pursuant
13 to RCW 13.34.060, or placed in foster care pursuant to RCW 13.34.130.

14 (5) The department may undertake a shared parenting placement
15 agreement in cases where the child's developmental disability is such
16 that the parent, guardian, or legal custodian is unable to provide the
17 necessary care for the child, and the parent, guardian, or legal
18 custodian has determined that the child would benefit from placement
19 outside of the home. If the department does not accept the shared
20 parenting placement agreement signed by the parent, a petition may be
21 filed and an action pursued under chapter 13.34 RCW. The department
22 shall inform the parent, guardian, or legal custodian in writing of
23 their right to civil action under chapter 13.34 RCW.

24 NEW SECTION. **Sec. 4.** (1) Under the shared parenting placement
25 agreement, the department shall provide, directly or by contract, out-
26 of-home residential services required for the child's health and
27 safety.

28 (2) The child's developmental disability assessment must determine
29 the level and extent of residential and other services, which must be
30 provided in a community setting in the least restrictive environment.
31 After six months in the community setting, the child must be reassessed
32 to determine if the community setting meets the needs of the child.

33 (3) If a child would have otherwise been placed at a residential
34 habilitation center for these services, the secretary shall transfer
35 the funding from the institutional budget to the community budget to
36 cover the costs for the child. The average rate for the services

1 provided in the community may not exceed eighty percent of the average
2 daily rate paid for placement in the residential habilitation center.

3 (4) If a child is transferred from a least restrictive environment
4 to a more restrictive environment, a planning team, within ten days of
5 placement, shall develop a transition plan to a less restrictive
6 environment that will meet the needs of the child.

7 (5) Before the placement is made the department shall notify the
8 local school district that the child is being placed within its
9 jurisdiction.

10 (6) Within thirty days of placement, the department shall convene
11 the planning team to develop the individual services and support plan.
12 This plan must be the basis for permanency planning and provide
13 safeguards in the best interests of the child.

14 (7) Whenever the parent or legal guardian requests an out-of-home
15 placement under a shared parenting placement agreement, the department
16 shall determine the level of support and services required, the
17 appropriate home and community based waiver on which the child will be
18 placed, and arrange residential services and other services the child
19 may need.

20 (8) The department shall license or certify new facilities or
21 programs to serve children under shared parenting placement agreements
22 as needed, and the licensing or certification must be done within
23 thirty days from the date of the determination of need for such a new
24 facility or program.

25 NEW SECTION. **Sec. 5.** (1) Within the first one hundred eighty days
26 of the placement, the department shall obtain a judicial determination
27 pursuant to RCW 13.04.030(1)(j) and 13.34.270 that the placement is in
28 the best interests of the child. If the child's out-of-home placement
29 ends before one hundred eighty days have elapsed, no judicial
30 determination under RCW 13.04.030(1)(b) is required. The permanency
31 planning hearings shall review whether the child's best interests are
32 served by continued out-of-home placement and determine the future
33 legal status of the child.

34 (2) Nothing in this section prevents the department from filing a
35 dependency petition if there is reason to believe that the child is a
36 dependent child as defined in RCW 13.34.030.

1 NEW SECTION. **Sec. 6.** The department shall propose rules necessary
2 to implement this chapter.

3 NEW SECTION. **Sec. 7.** RCW 74.13.350 (Children with developmental
4 disabilities--Out-of-home placement--Voluntary placement agreement) and
5 2004 c 183 s 4, 1998 c 229 s 1, & 1997 c 386 s 16 are each repealed.

6 NEW SECTION. **Sec. 8.** Sections 1 through 6 of this act constitute
7 a new chapter in Title 71A RCW.

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