

---

**SUBSTITUTE SENATE BILL 5935**

---

**State of Washington                      62nd Legislature                      2011 1st Special Session**

**By Senate Ways & Means (originally sponsored by Senator Hargrove)**

READ FIRST TIME 05/06/11.

1            AN ACT Relating to adoption support payments; amending RCW  
2 74.13A.025, 74.13A.050, and 74.13A.060; reenacting and amending RCW  
3 74.13A.020; adding new sections to chapter 74.13A RCW; creating a new  
4 section; providing an effective date; and declaring an emergency.

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

6            **Sec. 1.** RCW 74.13A.020 and 2009 c 520 s 66 and 2009 c 491 s 9 are  
7 each reenacted and amended to read as follows:

8            (1) The secretary shall issue rules and regulations to assist in  
9 the administration of the program of adoption support authorized by RCW  
10 26.33.320 and 74.13A.005 through 74.13A.080.

11            (2) Disbursements from the appropriations available from the  
12 general fund shall be made pursuant to this chapter and such rules and  
13 regulations and pursuant to agreements conforming thereto to be made by  
14 the secretary with parents for the purpose of supporting the adoption  
15 of children in, or likely to be placed in, foster homes or child caring  
16 institutions who are found by the secretary to be (~~difficult~~) hard to  
17 place in adoption because of physical or other reasons; including, but  
18 not limited to, physical or mental handicap, emotional disturbance,  
19 ethnic background, language, race, color, age, or sibling grouping.

1 (3) Such agreements shall meet the following criteria:

2 (a) The child whose adoption is to be supported pursuant to such  
3 agreement shall be or have been a child hard to place in adoption.

4 (b) Such agreement must relate to a child who was or is residing in  
5 a foster home or child-caring institution or a child who, in the  
6 judgment of the secretary, is both eligible for, and likely to be  
7 placed in, either a foster home or a child-caring institution.

8 (c) Such agreement shall provide that adoption support shall not  
9 continue beyond the time that the adopted child reaches eighteen years  
10 of age, becomes emancipated, dies, or otherwise ceases to need support.  
11 If the secretary finds that continuing dependency of such child after  
12 such child reaches eighteen years of age warrants the continuation of  
13 support pursuant to RCW 26.33.320 and 74.13A.005 through 74.13A.080 the  
14 secretary may do so, subject to all the provisions of RCW 26.33.320 and  
15 74.13A.005 through 74.13A.080, including annual review of the amount of  
16 such support.

17 (d) Any prospective parent who is to be a party to such agreement  
18 shall be a person who has the character, judgment, sense of  
19 responsibility, and disposition which make him or her suitable as an  
20 adoptive parent of such child.

21 (4) At least six months before an adoption is finalized under  
22 chapter 26.33 RCW and RCW (~~((74.13.100))~~) 74.13A.005 through  
23 (~~((74.13.145))~~) 74.13A.080, the department must provide to the  
24 prospective adoptive parent, in writing, information describing the  
25 limits of the adoption support program including the following  
26 information:

27 (a) The limits on monthly cash payments to adoptive families;

28 (b) The limits on the availability of children's mental health  
29 services and the funds with which to pay for these services;

30 (c) The process for accessing mental health services for children  
31 receiving adoption support services;

32 (d) The limits on the one-time cash payments to adoptive families  
33 for expenses related to their adopted children; and

34 (e) That payment for residential or group care is not available for  
35 adopted children under the adoption support program.

36 **Sec. 2.** RCW 74.13A.025 and 1996 c 130 s 1 are each amended to read  
37 as follows:

1       (1) Subject to subsection (2) of this section, the factors to be  
2 considered by the secretary in setting the amount of any payment or  
3 payments to be made pursuant to RCW 26.33.320 and ~~((74.13.100))~~  
4 74.13A.005 through ~~((74.13.145))~~ 74.13A.080 and in adjusting standards  
5 hereunder shall include: The size of the family including the adoptive  
6 child, the usual living expenses of the family, the special needs of  
7 any family member including education needs, the family income, the  
8 family resources and plan for savings, the medical and hospitalization  
9 needs of the family, the family's means of purchasing or otherwise  
10 receiving such care, and any other expenses likely to be needed by the  
11 child to be adopted.

12       (2)(a) An adoptive parent who adopts a child from the foster care  
13 system after providing foster care services to that child does not  
14 qualify for the adoption support subsidy if he or she received the  
15 basic foster care rate for the child while the child was in care, and  
16 did not spend in excess of the hours one would normally spend meeting  
17 the needs of a typically developing child. The adoptive parent and  
18 child would qualify for all other adoption support services, including  
19 medical care.

20       (b) An adoptive parent, who was a relative or other unpaid  
21 caregiver during the time an adoptive child was in the dependency  
22 system, and who did not spend in excess of the hours one would normally  
23 spend meeting the needs of a typically developing child and, if  
24 licensed as a foster parent, would have received the basic foster care  
25 rate for the child, does not qualify for the adoption support subsidy  
26 but the child shall qualify for all other adoption support program  
27 services, including medical care.

28       (3) In setting the amount of any initial payment made pursuant to  
29 RCW 26.33.320 and ~~((74.13.100))~~ 74.13A.005 through ~~((74.13.145))~~  
30 74.13A.080, the secretary is authorized to establish maximum payment  
31 amounts that are reasonable and allow permanency planning goals related  
32 to adoption of children under RCW 13.34.145 to be achieved at the  
33 earliest possible date.

34       (4) The amounts paid for the support of a child pursuant to RCW  
35 26.33.320 and ((74.13.100)) 74.13A.005 through ((74.13.145)) 74.13A.080  
36 may vary from family to family and from year to year. Due to changes  
37 in economic circumstances or the needs of the child such payments may  
38 be discontinued and later resumed.

1       (5) Payments under RCW 26.33.320 and (~~74.13.100~~) 74.13A.005  
2 through (~~74.13.145~~) 74.13A.080 may be continued by the secretary  
3 subject to review as provided for herein, if such parent or parents  
4 having such child in their custody establish their residence in another  
5 state or a foreign jurisdiction.

6       (6) In fixing the standards to govern the amount and character of  
7 payments to be made for the support of adopted children pursuant to RCW  
8 26.33.320 and (~~74.13.100~~) 74.13A.005 through (~~74.13.145~~) 74.13A.080  
9 and before issuing rules and regulations to carry out the provisions of  
10 RCW 26.33.320 and (~~74.13.100~~) 74.13A.005 through (~~74.13.145~~)  
11 74.13A.080, the secretary shall consider the comments and  
12 recommendations of the committee designated by the secretary to advise  
13 him or her with respect to child welfare.

14       NEW SECTION. **Sec. 3.** A new section is added to chapter 74.13A RCW  
15 to read as follows:

16       Nothing in this chapter prohibits an adoptive parent from seeking  
17 payments or assistance under this chapter after the finalization of the  
18 adoption of a child who was in, or likely to be placed in, foster care  
19 or relative or other unpaid care, prior to the adoption, but who, at  
20 the time of adoption, was not considered hard to place.

21       **Sec. 4.** RCW 74.13A.050 and 2009 c 520 s 67 are each amended to  
22 read as follows:

23       An agreement for adoption support made before January 1, 1985, or  
24 pursuant to RCW 26.33.320 and 74.13A.005 through 74.13A.080, although  
25 subject to review and adjustment as provided for herein, shall, as to  
26 the standard used by the secretary in making such review or reviews and  
27 any such adjustment, constitutes a contract within the meaning of  
28 section 10, Article I of the United States Constitution and section 23,  
29 Article I of the state Constitution. For that reason once such an  
30 agreement has been made any review of and adjustment under such  
31 agreement shall as to the standards used by the secretary, be made only  
32 subject to the provisions of RCW 26.33.320 and 74.13A.005 through  
33 74.13A.080 and such rules and regulations relating thereto as they  
34 exist on the date of the initial determination in connection with such  
35 agreement or such more generous standard or parts of such standard as  
36 may hereafter be provided for by law or regulation. Once made such an

1 agreement shall constitute a solemn undertaking by the state of  
2 Washington with such adoptive parent or parents. The termination of  
3 the effective period of RCW 26.33.320 and 74.13A.005 through 74.13A.080  
4 or a decision by the state or federal government to discontinue or  
5 reduce general appropriations made available for the purposes to be  
6 served by RCW 26.33.320 and 74.13A.005 through 74.13A.080, shall not  
7 affect the state's specific continuing obligations to support such  
8 adoptions, subject to such annual review and adjustment for all such  
9 agreements as have theretofore been entered into by the state.

10 The purpose of this section is to assure any such parent that, upon  
11 his or her consenting to assume the burdens of adopting a hard to place  
12 child, the state will not in future so act by way of general reduction  
13 of appropriations for the program authorized by RCW 26.33.320 and  
14 74.13A.005 through 74.13A.080 or ratable reductions, to impair the  
15 trust and confidence necessarily reposed by such parent in the state as  
16 a condition of such parent taking upon himself or herself the  
17 obligations of parenthood of a (~~difficult~~) hard to place child.

18 Should the secretary and any such adoptive parent differ as to  
19 whether any standard or part of a standard adopted by the secretary  
20 after the date of an initial agreement, which standard or part is used  
21 by the secretary in making any review and adjustment, is more generous  
22 than the standard in effect as of the date of the initial determination  
23 with respect to such agreement such adoptive parent may invoke his or  
24 her rights, including all rights of appeal under the fair hearing  
25 provisions, available to him or her under RCW 74.13A.055.

26 **Sec. 5.** RCW 74.13A.060 and 1990 c 285 s 8 are each amended to read  
27 as follows:

28 The secretary may authorize the payment, from the appropriations  
29 available from the general fund, of all or part of the nonrecurring  
30 adoption expenses incurred by a prospective parent. "Nonrecurring  
31 adoption expenses" means those expenses incurred by a prospective  
32 parent in connection with the adoption of a (~~difficult~~) hard to place  
33 child including, but not limited to, attorneys' fees, court costs, and  
34 agency fees. Payment shall be made in accordance with rules adopted by  
35 the department.

36 This section shall have retroactive application to January 1, 1987.  
37 For purposes of retroactive application, the secretary may provide

1 reimbursement to any parent who adopted a (~~difficult~~) hard to place  
2 child between January 1, 1987, and one year following June 7, 1990,  
3 regardless of whether the parent had previously entered into an  
4 adoption support agreement with the department.

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

7 Any section or provision of this chapter that may be susceptible to  
8 more than one construction shall be interpreted in favor of the  
9 construction most likely to satisfy federal laws entitling this state  
10 to receive federal matching or other funds for the adoption support  
11 program. If any part of this chapter is found to be in conflict with  
12 federal requirements which are a prescribed condition to the receipts  
13 of federal funds to the state, the conflicting part of this chapter is  
14 hereby inoperative solely to the extent of the conflict and with  
15 respect to the agencies directly affected, and such finding or  
16 determination shall not affect the operation of the remainder of the  
17 chapter.

18 NEW SECTION. **Sec. 7.** This act applies to adoption support  
19 agreements entered into on or after July 1, 2011.

20 NEW SECTION. **Sec. 8.** This act is necessary for the immediate  
21 preservation of the public peace, health, or safety, or support of the  
22 state government and its existing public institutions, and takes effect  
23 July 1, 2011.

--- END ---