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HOUSE BILL 1815

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State of Washington

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2017 Regular Session

By Representatives Kilduff, Rodne, Senn, Muri, Lovick, Ortiz-Self, Orwall, and Frame; by request of Department of Social and Health Services

Read first time 01/30/17. Referred to Committee on Early Learning & Human Services.

1 AN ACT Relating to the rights of an alleged parent in dependency  
2 proceedings; amending RCW 13.04.011; and reenacting and amending RCW  
3 13.34.030.

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

5 **Sec. 1.** RCW 13.04.011 and 2011 c 330 s 2 are each amended to  
6 read as follows:

7 For purposes of this title:

8 (1) "Adjudication" has the same meaning as "conviction" in RCW  
9 9.94A.030, but only for the purposes of sentencing under chapter  
10 9.94A RCW;

11 (2) Except as specifically provided in RCW 13.40.020 and chapters  
12 13.24 and 13.34 RCW, "juvenile," "youth," and "child" mean any  
13 individual who is under the chronological age of eighteen years;

14 (3) "Juvenile offender" and "juvenile offense" have the meaning  
15 ascribed in RCW 13.40.020;

16 (4) "Court" when used without further qualification means the  
17 juvenile court judge(s) or commissioner(s);

18 (5) "Parent" or "parents," except as used in chapter 13.34 RCW,  
19 means that parent or parents who have the right of legal custody of  
20 the child(~~(. "Parent" or "parents" as used in chapter 13.34 RCW,~~

1 ~~means the biological or adoptive parents of a child unless the legal~~  
2 ~~rights of that person have been terminated by judicial proceedings));~~

3 (6) "Custodian" means that person who has the legal right to  
4 custody of the child.

5 **Sec. 2.** RCW 13.34.030 and 2013 c 332 s 2 and 2013 c 182 s 2 are  
6 each reenacted and amended to read as follows:

7 For purposes of this chapter:

8 (1) "Abandoned" means when the child's parent, guardian, or other  
9 custodian has expressed, either by statement or conduct, an intent to  
10 forego, for an extended period, parental rights or responsibilities  
11 despite an ability to exercise such rights and responsibilities. If  
12 the court finds that the petitioner has exercised due diligence in  
13 attempting to locate the parent, no contact between the child and the  
14 child's parent, guardian, or other custodian for a period of three  
15 months creates a rebuttable presumption of abandonment, even if there  
16 is no expressed intent to abandon.

17 (2) "Child," "juvenile," and "youth" means:

18 (a) Any individual under the age of eighteen years; or

19 (b) Any individual age eighteen to twenty-one years who is  
20 eligible to receive and who elects to receive the extended foster  
21 care services authorized under RCW 74.13.031. A youth who remains  
22 dependent and who receives extended foster care services under RCW  
23 74.13.031 shall not be considered a "child" under any other statute  
24 or for any other purpose.

25 (3) "Current placement episode" means the period of time that  
26 begins with the most recent date that the child was removed from the  
27 home of the parent, guardian, or legal custodian for purposes of  
28 placement in out-of-home care and continues until: (a) The child  
29 returns home; (b) an adoption decree, a permanent custody order, or  
30 guardianship order is entered; or (c) the dependency is dismissed,  
31 whichever occurs first.

32 (4) "Department" means the department of social and health  
33 services.

34 (5) "Dependency guardian" means the person, nonprofit  
35 corporation, or Indian tribe appointed by the court pursuant to this  
36 chapter for the limited purpose of assisting the court in the  
37 supervision of the dependency.

38 (6) "Dependent child" means any child who:

39 (a) Has been abandoned;

1 (b) Is abused or neglected as defined in chapter 26.44 RCW by a  
2 person legally responsible for the care of the child;

3 (c) Has no parent, guardian, or custodian capable of adequately  
4 caring for the child, such that the child is in circumstances which  
5 constitute a danger of substantial damage to the child's  
6 psychological or physical development; or

7 (d) Is receiving extended foster care services, as authorized by  
8 RCW 74.13.031.

9 (7) "Developmental disability" means a disability attributable to  
10 intellectual disability, cerebral palsy, epilepsy, autism, or another  
11 neurological or other condition of an individual found by the  
12 secretary to be closely related to an intellectual disability or to  
13 require treatment similar to that required for individuals with  
14 intellectual disabilities, which disability originates before the  
15 individual attains age eighteen, which has continued or can be  
16 expected to continue indefinitely, and which constitutes a  
17 substantial limitation to the individual.

18 (8) "Educational liaison" means a person who has been appointed  
19 by the court to fulfill responsibilities outlined in RCW 13.34.046.

20 (9) "Extended foster care services" means residential and other  
21 support services the department is authorized to provide under RCW  
22 74.13.031. These services may include placement in licensed,  
23 relative, or otherwise approved care, or supervised independent  
24 living settings; assistance in meeting basic needs; independent  
25 living services; medical assistance; and counseling or treatment.

26 (10) "Guardian" means the person or agency that: (a) Has been  
27 appointed as the guardian of a child in a legal proceeding, including  
28 a guardian appointed pursuant to chapter 13.36 RCW; and (b) has the  
29 legal right to custody of the child pursuant to such appointment. The  
30 term "guardian" does not include a "dependency guardian" appointed  
31 pursuant to a proceeding under this chapter.

32 (11) "Guardian ad litem" means a person, appointed by the court  
33 to represent the best interests of a child in a proceeding under this  
34 chapter, or in any matter which may be consolidated with a proceeding  
35 under this chapter. A "court-appointed special advocate" appointed by  
36 the court to be the guardian ad litem for the child, or to perform  
37 substantially the same duties and functions as a guardian ad litem,  
38 shall be deemed to be guardian ad litem for all purposes and uses of  
39 this chapter.

1 (12) "Guardian ad litem program" means a court-authorized  
2 volunteer program, which is or may be established by the superior  
3 court of the county in which such proceeding is filed, to manage all  
4 aspects of volunteer guardian ad litem representation for children  
5 alleged or found to be dependent. Such management shall include but  
6 is not limited to: Recruitment, screening, training, supervision,  
7 assignment, and discharge of volunteers.

8 (13) "Housing assistance" means appropriate referrals by the  
9 department or other supervising agencies to federal, state, local, or  
10 private agencies or organizations, assistance with forms,  
11 applications, or financial subsidies or other monetary assistance for  
12 housing. For purposes of this chapter, "housing assistance" is not a  
13 remedial service or time-limited family reunification service as  
14 described in RCW 13.34.025(2).

15 (14) "Indigent" means a person who, at any stage of a court  
16 proceeding, is:

17 (a) Receiving one of the following types of public assistance:  
18 Temporary assistance for needy families, aged, blind, or disabled  
19 assistance benefits, medical care services under RCW 74.09.035,  
20 pregnant women assistance benefits, poverty-related veterans'  
21 benefits, food stamps or food stamp benefits transferred  
22 electronically, refugee resettlement benefits, medicaid, or  
23 supplemental security income; or

24 (b) Involuntarily committed to a public mental health facility;  
25 or

26 (c) Receiving an annual income, after taxes, of one hundred  
27 twenty-five percent or less of the federally established poverty  
28 level; or

29 (d) Unable to pay the anticipated cost of counsel for the matter  
30 before the court because his or her available funds are insufficient  
31 to pay any amount for the retention of counsel.

32 (15) "Nonminor dependent" means any individual age eighteen to  
33 twenty-one years who is participating in extended foster care  
34 services authorized under RCW 74.13.031.

35 (16) "Out-of-home care" means placement in a foster family home  
36 or group care facility licensed pursuant to chapter 74.15 RCW or  
37 placement in a home, other than that of the child's parent, guardian,  
38 or legal custodian, not required to be licensed pursuant to chapter  
39 74.15 RCW.

1       (17) "Parent" means an individual who has established a parent-  
2 child relationship under RCW 26.26.101, unless the legal rights of  
3 that person have been terminated by a judicial proceeding pursuant to  
4 this chapter, chapter 26.33 RCW, or the equivalent laws of another  
5 state or a federally recognized Indian tribe.

6       (18) "Preventive services" means preservation services, as  
7 defined in chapter 74.14C RCW, and other reasonably available  
8 services, including housing assistance, capable of preventing the  
9 need for out-of-home placement while protecting the child.

10       (~~(18)~~) (19) "Shelter care" means temporary physical care in a  
11 facility licensed pursuant to RCW 74.15.030 or in a home not required  
12 to be licensed pursuant to RCW 74.15.030.

13       (~~(19)~~) (20) "Sibling" means a child's birth brother, birth  
14 sister, adoptive brother, adoptive sister, half-brother, or half-  
15 sister, or as defined by the law or custom of the Indian child's  
16 tribe for an Indian child as defined in RCW 13.38.040.

17       (~~(20)~~) (21) "Social study" means a written evaluation of  
18 matters relevant to the disposition of the case and shall contain the  
19 following information:

20       (a) A statement of the specific harm or harms to the child that  
21 intervention is designed to alleviate;

22       (b) A description of the specific services and activities, for  
23 both the parents and child, that are needed in order to prevent  
24 serious harm to the child; the reasons why such services and  
25 activities are likely to be useful; the availability of any proposed  
26 services; and the agency's overall plan for ensuring that the  
27 services will be delivered. The description shall identify the  
28 services chosen and approved by the parent;

29       (c) If removal is recommended, a full description of the reasons  
30 why the child cannot be protected adequately in the home, including a  
31 description of any previous efforts to work with the parents and the  
32 child in the home; the in-home treatment programs that have been  
33 considered and rejected; the preventive services, including housing  
34 assistance, that have been offered or provided and have failed to  
35 prevent the need for out-of-home placement, unless the health,  
36 safety, and welfare of the child cannot be protected adequately in  
37 the home; and the parents' attitude toward placement of the child;

38       (d) A statement of the likely harms the child will suffer as a  
39 result of removal;

1 (e) A description of the steps that will be taken to minimize the  
2 harm to the child that may result if separation occurs including an  
3 assessment of the child's relationship and emotional bond with any  
4 siblings, and the agency's plan to provide ongoing contact between  
5 the child and the child's siblings if appropriate; and

6 (f) Behavior that will be expected before determination that  
7 supervision of the family or placement is no longer necessary.

8 ~~((+21))~~ (22) "Supervised independent living" includes, but is  
9 not limited to, apartment living, room and board arrangements,  
10 college or university dormitories, and shared roommate settings.  
11 Supervised independent living settings must be approved by the  
12 children's administration or the court.

13 ~~((+22))~~ (23) "Supervising agency" means an agency licensed by  
14 the state under RCW 74.15.090, or licensed by a federally recognized  
15 Indian tribe located in this state under RCW 74.15.190, that has  
16 entered into a performance-based contract with the department to  
17 provide case management for the delivery and documentation of child  
18 welfare services as defined in RCW 74.13.020.

19 ~~((+23))~~ (24) "Voluntary placement agreement" means, for the  
20 purposes of extended foster care services, a written voluntary  
21 agreement between a nonminor dependent who agrees to submit to the  
22 care and authority of the department for the purposes of  
23 participating in the extended foster care program.

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