
HOUSE BILL 2733

State of Washington

66th Legislature

2020 Regular Session

By Representative Davis

Read first time 01/20/20. Referred to Committee on Human Services & Early Learning.

1 AN ACT Relating to supporting relationships between parents and
2 their children; amending RCW 13.34.020, 13.34.065, 13.34.190,
3 13.34.210, 26.11.020, 26.11.030, 26.33.295, 26.44.020, 71.12.680,
4 71.12.682, 71.12.684, and 71.12.686; and prescribing penalties.

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

6 **Sec. 1.** RCW 13.34.020 and 1998 c 314 s 1 are each amended to
7 read as follows:

8 (1) The legislature declares that the family unit is a
9 fundamental resource of American life which should be nurtured.
10 Toward the continuance of this principle, the legislature declares
11 that the family unit should remain intact unless a child's right to
12 conditions of basic nurture, health, or safety is jeopardized. When
13 the rights of basic nurture, physical and mental health, and safety
14 of the child and the legal rights of the parents are in conflict, the
15 rights and safety of the child should prevail. In making reasonable
16 efforts under this chapter, the child's health and safety shall be
17 the paramount concern. The right of a child to basic nurturing
18 includes the right to a safe, stable, and permanent home and a speedy
19 resolution of any proceeding under this chapter.

20 (2) The best interests of the child are served when the existing
21 pattern of interaction between a parent and child is altered only to

1 the extent necessitated by the changed relationship of the parents or
2 as required to protect the child from physical, mental, or emotional
3 harm. If a parent is unable to provide conditions of basic nurture,
4 health, or safety as a primary caregiver and faces termination of
5 parental rights under this chapter, but is otherwise capable of or
6 may be capable of healthy visitation with the child, it is presumed
7 that a written agreement under RCW 26.33.295 outlining ongoing
8 visitation is in the child's best interests.

9 (3) The legislature recognizes that many dependency and
10 termination proceedings are rooted in a parent's untreated substance
11 use and/or mental health challenges. Mental health conditions and
12 substance use disorders are treatable brain diseases from which
13 people can recover. Even though a parent might currently be unable to
14 serve as a primary caregiver and faces termination of parental rights
15 under this chapter, the legislature recognizes that the parent can
16 recover from his or her behavioral health challenges and, in doing
17 so, can become able to participate in his or her child's life in a
18 meaningful way. There is no such thing as too many people loving a
19 child, and a child's development is aided, not hindered, by the
20 presence of multiple, caring adults.

21 (4) The legislature recognizes that trauma caused by unnecessary
22 separation of parents and infants during the critical period of
23 bonding immediately following birth requires active efforts by the
24 department to engage these parents and actively provide services to
25 prevent the separation of a child from the child's parents. For
26 children born with neonatal abstinence syndrome, hospitals and child
27 welfare services must work together to ensure that evidence-based
28 best practices are followed, including keeping the birth mother and
29 child together whenever possible to reduce reliance on
30 pharmacological interventions for neonatal abstinence syndrome.

31 **Sec. 2.** RCW 13.34.065 and 2019 c 172 s 11 are each amended to
32 read as follows:

33 (1)(a) When a child is taken into custody, the court shall hold a
34 shelter care hearing within seventy-two hours, excluding Saturdays,
35 Sundays, and holidays. The primary purpose of the shelter care
36 hearing is to determine whether the child can be immediately and
37 safely returned home while the adjudication of the dependency is
38 pending.

1 (b) Any parent, guardian, or legal custodian who for good cause
2 is unable to attend the shelter care hearing may request that a
3 subsequent shelter care hearing be scheduled. The request shall be
4 made to the clerk of the court where the petition is filed prior to
5 the initial shelter care hearing. Upon the request of the parent, the
6 court shall schedule the hearing within seventy-two hours of the
7 request, excluding Saturdays, Sundays, and holidays. The clerk shall
8 notify all other parties of the hearing by any reasonable means.

9 (2) (a) If it is likely that the child will remain in shelter care
10 longer than seventy-two hours, the department shall submit a
11 recommendation to the court as to the further need for shelter care
12 in all cases in which the child will remain in shelter care longer
13 than the seventy-two hour period. In all other cases, the
14 recommendation shall be submitted by the juvenile court probation
15 counselor.

16 (b) All parties have the right to present testimony to the court
17 regarding the need or lack of need for shelter care.

18 (c) Hearsay evidence before the court regarding the need or lack
19 of need for shelter care must be supported by sworn testimony,
20 affidavit, or declaration of the person offering such evidence.

21 (3) (a) At the commencement of the hearing, the court shall notify
22 the parent, guardian, or custodian of the following:

23 (i) The parent, guardian, or custodian has the right to a shelter
24 care hearing;

25 (ii) The nature of the shelter care hearing, the rights of the
26 parents, and the proceedings that will follow; and

27 (iii) If the parent, guardian, or custodian is not represented by
28 counsel, the right to be represented. If the parent, guardian, or
29 custodian is indigent, the court shall appoint counsel as provided in
30 RCW 13.34.090; and

31 (b) If a parent, guardian, or legal custodian desires to waive
32 the shelter care hearing, the court shall determine, on the record
33 and with the parties present, whether such waiver is knowing and
34 voluntary. A parent may not waive his or her right to the shelter
35 care hearing unless he or she appears in court and the court
36 determines that the waiver is knowing and voluntary. Regardless of
37 whether the court accepts the parental waiver of the shelter care
38 hearing, the court must provide notice to the parents of their rights
39 required under (a) of this subsection and make the finding required
40 under subsection (4) of this section.

1 (4) At the shelter care hearing the court shall examine the need
2 for shelter care and inquire into the status of the case. The
3 paramount consideration for the court shall be the health, welfare,
4 and safety of the child. At a minimum, the court shall inquire into
5 the following:

6 (a) Whether the notice required under RCW 13.34.062 was given to
7 all known parents, guardians, or legal custodians of the child. The
8 court shall make an express finding as to whether the notice required
9 under RCW 13.34.062 was given to the parent, guardian, or legal
10 custodian. If actual notice was not given to the parent, guardian, or
11 legal custodian and the whereabouts of such person is known or can be
12 ascertained, the court shall order the department to make reasonable
13 efforts to advise the parent, guardian, or legal custodian of the
14 status of the case, including the date and time of any subsequent
15 hearings, and their rights under RCW 13.34.090;

16 (b) Whether the child can be safely returned home while the
17 adjudication of the dependency is pending;

18 (c) What efforts have been made to place the child with a
19 relative. The court shall ask the parents whether the department
20 discussed with them the placement of the child with a relative or
21 other suitable person described in RCW 13.34.130(1)(b) and shall
22 determine what efforts have been made toward such a placement;

23 (d) What services were provided to the family to prevent or
24 eliminate the need for removal of the child from the child's home,
25 including whether a documented, concerted, and good faith effort was
26 made by the department to facilitate the parent's receipt of and
27 engagement in services to prevent any removal or separation of the
28 child from a parent. If the dependency petition or other information
29 before the court alleges that homelessness or the lack of suitable
30 housing was a significant factor contributing to the removal of the
31 child, the court shall inquire as to whether housing assistance was
32 provided to the family to prevent or eliminate the need for removal
33 of the child or children;

34 (e) Is the placement proposed by the department the least
35 disruptive and most family-like setting that meets the needs of the
36 child;

37 (f) Whether it is in the best interest of the child to remain
38 enrolled in the school, developmental program, or child care the
39 child was in prior to placement and what efforts have been made to
40 maintain the child in the school, program, or child care if it would

1 be in the best interest of the child to remain in the same school,
2 program, or child care;

3 (g) Appointment of a guardian ad litem or attorney;

4 (h) Whether the child is or may be an Indian child as defined in
5 RCW 13.38.040, whether the provisions of the federal Indian child
6 welfare act or chapter 13.38 RCW apply, and whether there is
7 compliance with the federal Indian child welfare act and chapter
8 13.38 RCW, including notice to the child's tribe;

9 (i) Whether, as provided in RCW 26.44.063, restraining orders, or
10 orders expelling an allegedly abusive household member from the home
11 of a nonabusive parent, guardian, or legal custodian, will allow the
12 child to safely remain in the home;

13 (j) Whether any orders for examinations, evaluations, or
14 immediate services are needed. The court may not order a parent to
15 undergo examinations, evaluation, or services at the shelter care
16 hearing unless the parent agrees to the examination, evaluation, or
17 service;

18 (k) The terms and conditions for parental, sibling, and family
19 visitation.

20 (5) (a) The court shall release a child alleged to be dependent to
21 the care, custody, and control of the child's parent, guardian, or
22 legal custodian unless the court finds there is reasonable cause to
23 believe that:

24 (i) After consideration of the specific services that have been
25 provided, reasonable efforts, or documented, concerted, and good
26 faith efforts to facilitate the parent's receipt of and engagement in
27 services immediately following birth, have been made to prevent or
28 eliminate the need for removal of the child from the child's home and
29 to make it possible for the child to return home; and

30 (ii) (A) The child has no parent, guardian, or legal custodian to
31 provide supervision and care for such child; or

32 (B) The release of such child would present a serious threat of
33 substantial harm to such child, notwithstanding an order entered
34 pursuant to RCW 26.44.063; or

35 (C) The parent, guardian, or custodian to whom the child could be
36 released has been charged with violating RCW 9A.40.060 or 9A.40.070.

37 (b) If the court does not release the child to his or her parent,
38 guardian, or legal custodian, the court shall order placement with a
39 relative or other suitable person as described in RCW
40 13.34.130(1)(b), unless there is reasonable cause to believe the

1 health, safety, or welfare of the child would be jeopardized or that
2 the efforts to reunite the parent and child will be hindered. If such
3 relative or other suitable person appears otherwise suitable and
4 competent to provide care and treatment, the fingerprint-based
5 background check need not be completed before placement, but as soon
6 as possible after placement. The court must also determine whether
7 placement with the relative or other suitable person is in the
8 child's best interests. The relative or other suitable person must be
9 willing and available to:

10 (i) Care for the child and be able to meet any special needs of
11 the child;

12 (ii) Facilitate the child's visitation with siblings, if such
13 visitation is part of the department's plan or is ordered by the
14 court; and

15 (iii) Cooperate with the department in providing necessary
16 background checks and home studies.

17 (c) If the child was not initially placed with a relative or
18 other suitable person, and the court does not release the child to
19 his or her parent, guardian, or legal custodian, the department shall
20 make reasonable efforts to locate a relative or other suitable person
21 pursuant to RCW 13.34.060(1). In determining placement, the court
22 shall weigh the child's length of stay and attachment to the current
23 provider in determining what is in the best interest of the child.

24 (d) If a relative or other suitable person is not available, the
25 court shall order continued shelter care and shall set forth its
26 reasons for the order. If the court orders placement of the child
27 with a person not related to the child and not licensed to provide
28 foster care, the placement is subject to all terms and conditions of
29 this section that apply to relative placements.

30 (e) Any placement with a relative, or other suitable person
31 approved by the court pursuant to this section, shall be contingent
32 upon cooperation with the department's or agency's case plan and
33 compliance with court orders related to the care and supervision of
34 the child including, but not limited to, court orders regarding
35 parent-child contacts, sibling contacts, and any other conditions
36 imposed by the court. Noncompliance with the case plan or court order
37 is grounds for removal of the child from the home of the relative or
38 other suitable person, subject to review by the court.

1 (f) If the child is placed in a qualified residential treatment
2 program as defined in this chapter, the court shall, within sixty
3 days of placement, hold a hearing to:

4 (i) Consider the assessment required under RCW 13.34.420 and
5 submitted as part of the department's social study, and any related
6 documentation;

7 (ii) Determine whether placement in foster care can meet the
8 child's needs or if placement in another available placement setting
9 best meets the child's needs in the least restrictive environment;
10 and

11 (iii) Approve or disapprove the child's placement in the
12 qualified residential treatment program.

13 (g) Uncertainty by a parent, guardian, legal custodian, relative,
14 or other suitable person that the alleged abuser has in fact abused
15 the child shall not, alone, be the basis upon which a child is
16 removed from the care of a parent, guardian, or legal custodian under
17 (a) of this subsection, nor shall it be a basis, alone, to preclude
18 placement with a relative or other suitable person under (b) of this
19 subsection.

20 (6) (a) A shelter care order issued pursuant to this section shall
21 include the requirement for a case conference as provided in RCW
22 13.34.067. However, if the parent is not present at the shelter care
23 hearing, or does not agree to the case conference, the court shall
24 not include the requirement for the case conference in the shelter
25 care order.

26 (b) If the court orders a case conference, the shelter care order
27 shall include notice to all parties and establish the date, time, and
28 location of the case conference which shall be no later than thirty
29 days before the fact-finding hearing.

30 (c) The court may order another conference, case staffing, or
31 hearing as an alternative to the case conference required under RCW
32 13.34.067 so long as the conference, case staffing, or hearing
33 ordered by the court meets all requirements under RCW 13.34.067,
34 including the requirement of a written agreement specifying the
35 services to be provided to the parent.

36 (7) (a) A shelter care order issued pursuant to this section may
37 be amended at any time with notice and hearing thereon. The shelter
38 care decision of placement shall be modified only upon a showing of
39 change in circumstances. No child may be placed in shelter care for

1 longer than thirty days without an order, signed by the judge,
2 authorizing continued shelter care.

3 (b) (i) An order releasing the child on any conditions specified
4 in this section may at any time be amended, with notice and hearing
5 thereon, so as to return the child to shelter care for failure of the
6 parties to conform to the conditions originally imposed.

7 (ii) The court shall consider whether nonconformance with any
8 conditions resulted from circumstances beyond the control of the
9 parent, guardian, or legal custodian and give weight to that fact
10 before ordering return of the child to shelter care.

11 (8) (a) If a child is returned home from shelter care a second
12 time in the case, or if the supervisor of the caseworker deems it
13 necessary, the multidisciplinary team may be reconvened.

14 (b) If a child is returned home from shelter care a second time
15 in the case a law enforcement officer must be present and file a
16 report to the department.

17 **Sec. 3.** RCW 13.34.190 and 2011 c 309 s 30 are each amended to
18 read as follows:

19 (1) Except as provided in subsection (2) of this section, after
20 hearings pursuant to RCW 13.34.110 or 13.34.130, the court may enter
21 an order terminating all parental rights to a child only if the court
22 finds that:

23 (a) (i) The allegations contained in the petition as provided in
24 RCW 13.34.180(1) are established by clear, cogent, and convincing
25 evidence; or

26 (ii) The provisions of RCW 13.34.180(1) (a), (b), (e), and (f)
27 are established beyond a reasonable doubt and if so, then RCW
28 13.34.180(1) (c) and (d) may be waived. When an infant has been
29 abandoned, as defined in RCW 13.34.030, and the abandonment has been
30 proved beyond a reasonable doubt, then RCW 13.34.180(1) (c) and (d)
31 may be waived; or

32 (iii) The allegation under RCW 13.34.180(~~((2))~~) (3) is
33 established beyond a reasonable doubt. In determining whether RCW
34 13.34.180(1) (e) and (f) are established beyond a reasonable doubt,
35 the court shall consider whether one or more of the aggravated
36 circumstances listed in RCW 13.34.132 exist; or

37 (iv) The allegation under RCW 13.34.180(~~((3))~~) (4) is established
38 beyond a reasonable doubt; and

39 (b) Such an order is in the best interests of the child.

1 (i) If the court finds that termination of parental rights is in
2 the child's best interest, the court shall also examine whether it is
3 in the child's best interest to have posttermination contact with the
4 parent. It is presumed that contact between the child and the parent
5 whose rights have been terminated currently is, or in the future will
6 be, in the child's best interest. To rebut this presumption, the
7 department must establish by clear, cogent, and convincing evidence
8 that such contact currently is not, and will never be, in the child's
9 best interest;

10 (ii) There is a presumption that visitation between the child and
11 parent whose rights have been terminated will continue or be
12 reinstated pursuant to an open adoption agreement under RCW
13 26.33.295, unless the contact is no longer, and will never be, in the
14 child's best interest. If visitation is not currently in the child's
15 best interest, the open adoption agreement in RCW 26.33.295 may
16 include requirements for a birth parent to remedy issues that led to
17 the termination prior to reinstatement of visitation.

18 (2) The provisions of chapter 13.38 RCW must be followed in any
19 proceeding under this chapter for termination of the parent-child
20 relationship of an Indian child as defined in RCW 13.38.040.

21 **Sec. 4.** RCW 13.34.210 and 2018 c 284 s 21 are each amended to
22 read as follows:

23 (1) If, upon entering an order terminating the parental rights of
24 a parent, there remains no parent having parental rights, the court
25 shall commit the child to the custody of the department willing to
26 accept custody for the purpose of placing the child for adoption. If
27 an adoptive home has not been identified, the department shall place
28 the child in a licensed foster home, or take other suitable measures
29 for the care and welfare of the child. The custodian shall have
30 authority to consent to the adoption of the child consistent with
31 chapter 26.33 RCW, the marriage of the child, the enlistment of the
32 child in the armed forces of the United States, necessary surgical
33 and other medical treatment for the child, and to consent to such
34 other matters as might normally be required of the parent of the
35 child.

36 (2) If a child has not been adopted within six months after the
37 date of the order and a guardianship of the child under chapter 13.36
38 RCW or chapter 11.88 RCW, or a permanent custody order under chapter
39 26.10 RCW, has not been entered by the court, the court shall review

1 the case every six months until a decree of adoption is entered. The
2 department shall take reasonable steps to ensure that the child
3 maintains relationships with siblings as provided in RCW
4 13.34.130(~~(+6)~~) (7) and shall report to the court the status and
5 extent of such relationships.

6 (3) A person whose parental rights were terminated may petition
7 the court for visitation with the child who is in the custody of the
8 department, and for whom there remains no parent having parental
9 rights, alleging that it would be in the child's best interest to
10 allow visitation between the petitioner and the child.

11 (a) A petitioner under this subsection (3) shall:

12 (i) Set forth facts in the affidavit supporting the petitioner's
13 requested order for visitation;

14 (ii) Serve notice of the filing to the department, and the
15 department may file an opposing motion.

16 (b) If, based on the petition and affidavits, the court finds
17 that it is more likely than not that visitation will be granted, the
18 court shall hold a hearing.

19 (c) During a hearing to consider visitation under this subsection
20 (3), the court shall enter an order granting visitation if it finds
21 that it would be in the child's best interest to visit the
22 petitioner.

23 (d) A court may not modify or terminate an order granting
24 visitation under this subsection (3) unless it finds, on the basis of
25 facts that have arisen since the entry of the order or were unknown
26 to the court at the time it entered the order, that a substantial
27 change of circumstances has occurred in the circumstances of the
28 child or parent and that modification or termination of the order is
29 necessary for the best interest of the child.

30 **Sec. 5.** RCW 26.11.020 and 2018 c 183 s 2 are each amended to
31 read as follows:

32 (1) (a) A person who is not the parent of the child may petition
33 for visitation with the child if:

34 ~~((+a))~~ (i) The petitioner has an ongoing and substantial
35 relationship with the child;

36 ~~((+b))~~ (ii) The petitioner is a relative of the child or a
37 parent of the child; and

38 ~~((+e))~~ (iii) The child is likely to suffer harm or a substantial
39 risk of harm if visitation is denied.

1 ~~((2))~~ (b) A person has established an ongoing and substantial
2 relationship with a child if the person and the child have had a
3 relationship formed and sustained through interaction, companionship,
4 and mutuality of interest and affection, without expectation of
5 financial compensation, with substantial continuity for at least two
6 years unless the child is under the age of two years, in which case
7 there must be substantial continuity for at least half of the child's
8 life, and with a shared expectation of and desire for an ongoing
9 relationship.

10 (2)(a) A person whose parental rights with respect to a child
11 were terminated in a proceeding under chapter 13.34 RCW may petition
12 for visitation with the child if:

13 (i) The person has successfully addressed the parental
14 deficiencies that led to the termination or relinquishment of
15 parental rights; and

16 (ii) The child is likely to suffer harm or a substantial
17 likelihood of harm if visitation is denied.

18 (b) In determining whether a petitioner has met the requirements
19 in (a)(i) of this subsection, the court may consider evidence that
20 the petitioner:

21 (i) Has a history of successful engagement in, and completion of,
22 treatment programs or services that address the parental deficiencies
23 that were the basis for the termination;

24 (ii) Has demonstrated recovery from his or her mental health or
25 substance use disorder, or both, for at least one continuous year
26 prior to the filing of the petition as evidenced by more than one
27 third-party attestation;

28 (iii) Is currently successfully parenting or caregiving for a
29 child or children; and

30 (iv) Has demonstrated consistent visitation during the time in
31 which visitation was available to the parent.

32 (c) If aggravated circumstances under RCW 13.34.132 exist, the
33 parent for whom those aggravated circumstances exist is not eligible
34 for visitation under this section.

35 **Sec. 6.** RCW 26.11.030 and 2018 c 183 s 3 are each amended to
36 read as follows:

37 (1) If a court has jurisdiction over the child pursuant to
38 chapter 26.27 RCW, a petition for visitation under RCW 26.11.020 must
39 be filed with that court.

1 (2) Except as otherwise provided in subsection (1) of this
2 section, if a court has exclusive original jurisdiction over the
3 child under RCW 13.04.030(1) (a) through (d), (h), or (j), a petition
4 for visitation under RCW 26.11.020 must be filed with that court.
5 Granting of a petition for visitation under this chapter does not
6 entitle the petitioner to party status in a child custody proceeding
7 under Title 13 RCW.

8 (3) Except as otherwise provided in subsections (1) and (2) of
9 this section, a petition for visitation under RCW 26.11.020 must be
10 filed in the county where the child primarily resides.

11 (4) The petitioner may not file a petition for visitation more
12 than once.

13 (5) The petitioner must file with the petition an affidavit
14 alleging that:

15 (a) (i) A relationship with the child that satisfies the
16 requirements of RCW 26.11.020(1) exists or existed before action by
17 the respondent; or (ii) the petitioner meets the criteria in RCW
18 26.11.020(2); and

19 (b) The child would likely suffer harm or the substantial risk of
20 harm if visitation between the petitioner and child was not granted.

21 (6) The petitioner shall set forth facts in the affidavit
22 supporting the petitioner's requested order for visitation.

23 (7) The petitioner shall serve notice of the filing to each
24 person having legal custody of, or court-ordered residential time
25 with, the child. A person having legal custody or residential time
26 with the child may file an opposing affidavit.

27 (8) If, based on the petition and affidavits, the court finds
28 that it is more likely than not that visitation will be granted, the
29 court shall hold a hearing.

30 (9) The court may not enter any temporary orders to establish,
31 enforce, or modify visitation under this section.

32 **Sec. 7.** RCW 26.33.295 and 2009 c 234 s 3 are each amended to
33 read as follows:

34 (1) Nothing in this chapter shall be construed to prohibit the
35 parties to a proceeding under this chapter from entering into
36 agreements regarding communication with or contact between child
37 adoptees, adoptive parents, siblings of child adoptees, and a birth
38 parent or parents.

1 (2) Agreements regarding communication with or contact between
2 child adoptees, adoptive parents, siblings of child adoptees, and a
3 birth parent or parents shall not be legally enforceable unless the
4 terms of the agreement are set forth in a written court order entered
5 in accordance with the provisions of this section. The court shall
6 not enter a proposed order unless the terms of such order have been
7 approved in writing by the prospective adoptive parents, any birth
8 parent (~~whose parental rights have not previously been terminated~~),
9 and, if the child or siblings of the child are in the custody of the
10 department or a licensed child-placing agency, a representative of
11 the department or child-placing agency. If the child is represented
12 by an attorney or guardian ad litem in a proceeding under this
13 chapter or in any other child-custody proceeding, the terms of the
14 proposed order also must be approved in writing by the child's
15 representative. An agreement under this section need not disclose the
16 identity of the parties to be legally enforceable. The court shall
17 not enter a proposed order unless the court finds that the
18 communication or contact with the child adoptee, as agreed upon and
19 as set forth in the proposed order, would be in the child adoptee's
20 best interests.

21 (3) Failure to comply with the terms of an agreed order regarding
22 communication or contact that has been entered by the court pursuant
23 to this section shall not be grounds for setting aside an adoption
24 decree or revocation of a written consent to an adoption after that
25 consent has been approved by the court as provided in this chapter.

26 (4) An agreed order entered pursuant to this section may be
27 enforced by a civil action in the court which entered the open
28 adoption agreed order and the prevailing party in that action may be
29 awarded, as part of the costs of the action, a reasonable amount to
30 be fixed by the court as attorneys' fees and civil fines of up to
31 three hundred dollars for each missed visit or violation of a contact
32 provision required by the open adoption agreed order. The court shall
33 not modify an agreed order under this section unless it finds that
34 the modification is necessary to serve the best interests of the
35 child adoptee, and that: (a) The modification is agreed to by the
36 adoptive parent and the birth parent or parents; or (b) exceptional
37 circumstances have arisen since the agreed order was entered that
38 justify modification of the order. Exceptional circumstances under
39 this subsection include, but are not limited to:

1 (i) Refusal of the adoptive parent to comply with visitation or
2 contact provisions included in the open adoption agreed order;

3 (ii) Visitation or contact provisions which are no longer
4 possible to follow; or

5 (iii) A substantial change in the circumstances of the birth
6 parent's life that justifies less restrictive or increased visitation
7 with the child adoptee.

8 (5) This section does not require the department or other
9 supervising agency to agree to any specific provisions in an open
10 adoption agreement and does not create a new obligation for the
11 department to provide supervision or transportation for visits
12 between siblings separated by adoption from foster care.

13 (6) By July 1, 2020, the administrative office of the courts
14 shall develop a pattern form for open adoption agreed orders. After
15 July 1, 2020, parties must use the pattern form for open adoption
16 agreed orders.

17 **Sec. 8.** RCW 26.44.020 and 2019 c 172 s 5 are each amended to
18 read as follows:

19 The definitions in this section apply throughout this chapter
20 unless the context clearly requires otherwise.

21 (1) "Abuse or neglect" means sexual abuse, sexual exploitation,
22 or injury of a child by any person under circumstances which cause
23 harm to the child's health, welfare, or safety, excluding conduct
24 permitted under RCW 9A.16.100; or the negligent treatment or
25 maltreatment of a child by a person responsible for or providing care
26 to the child. An abused child is a child who has been subjected to
27 child abuse or neglect as defined in this section.

28 (2) "Child" or "children" means any person under the age of
29 eighteen years of age.

30 (3) "Child forensic interview" means a developmentally sensitive
31 and legally sound method of gathering factual information regarding
32 allegations of child abuse, child neglect, or exposure to violence.
33 This interview is conducted by a competently trained, neutral
34 professional utilizing techniques informed by research and best
35 practice as part of a larger investigative process.

36 (4) "Child protective services" means those services provided by
37 the department designed to protect children from child abuse and
38 neglect and safeguard such children from future abuse and neglect,
39 and conduct investigations of child abuse and neglect reports.

1 Investigations may be conducted regardless of the location of the
2 alleged abuse or neglect. Child protective services includes referral
3 to services to ameliorate conditions that endanger the welfare of
4 children, the coordination of necessary programs and services
5 relevant to the prevention, intervention, and treatment of child
6 abuse and neglect, and services to children to ensure that each child
7 has a permanent home. In determining whether protective services
8 should be provided, the department shall not decline to provide such
9 services solely because of the child's unwillingness or developmental
10 inability to describe the nature and severity of the abuse or
11 neglect.

12 (5) "Child protective services section" means the child
13 protective services section of the department.

14 (6) "Child who is a candidate for foster care" means a child who
15 the department identifies as being at imminent risk of entering
16 foster care but who can remain safely in the child's home or in a
17 kinship placement as long as services or programs that are necessary
18 to prevent entry of the child into foster care are provided, and
19 includes but is not limited to a child whose adoption or guardianship
20 arrangement is at risk of a disruption or dissolution that would
21 result in a foster care placement. The term includes a child for whom
22 there is reasonable cause to believe that any of the following
23 circumstances exist:

24 (a) The child has been abandoned by the parent as defined in RCW
25 13.34.030 and the child's health, safety, and welfare is seriously
26 endangered as a result;

27 (b) The child has been abused or neglected as defined in this
28 chapter ((~~26.44 RCW~~)) and the child's health, safety, and welfare is
29 seriously endangered as a result;

30 (c) There is no parent capable of meeting the child's needs such
31 that the child is in circumstances that constitute a serious danger
32 to the child's development;

33 (d) The child is otherwise at imminent risk of harm.

34 (7) "Children's advocacy center" means a child-focused facility
35 in good standing with the state chapter for children's advocacy
36 centers and that coordinates a multidisciplinary process for the
37 investigation, prosecution, and treatment of sexual and other types
38 of child abuse. Children's advocacy centers provide a location for
39 forensic interviews and coordinate access to services such as, but
40 not limited to, medical evaluations, advocacy, therapy, and case

1 review by multidisciplinary teams within the context of county
2 protocols as defined in RCW 26.44.180 and 26.44.185.

3 (8) "Clergy" means any regularly licensed or ordained minister,
4 priest, or rabbi of any church or religious denomination, whether
5 acting in an individual capacity or as an employee or agent of any
6 public or private organization or institution.

7 (9) "Court" means the superior court of the state of Washington,
8 juvenile department.

9 (10) "Department" means the department of children, youth, and
10 families.

11 (11) "Family assessment" means a comprehensive assessment of
12 child safety, risk of subsequent child abuse or neglect, and family
13 strengths and needs that is applied to a child abuse or neglect
14 report. Family assessment does not include a determination as to
15 whether child abuse or neglect occurred, but does determine the need
16 for services to address the safety of the child and the risk of
17 subsequent maltreatment.

18 (12) "Family assessment response" means a way of responding to
19 certain reports of child abuse or neglect made under this chapter
20 using a differential response approach to child protective services.
21 The family assessment response shall focus on the safety of the
22 child, the integrity and preservation of the family, and shall assess
23 the status of the child and the family in terms of risk of abuse and
24 neglect including the parent's or guardian's or other caretaker's
25 capacity and willingness to protect the child and, if necessary, plan
26 and arrange the provision of services to reduce the risk and
27 otherwise support the family. No one is named as a perpetrator, and
28 no investigative finding is entered in the record as a result of a
29 family assessment.

30 (13) "Founded" means the determination following an investigation
31 by the department that, based on available information, it is more
32 likely than not that child abuse or neglect did occur.

33 (14) "Inconclusive" means the determination following an
34 investigation by the department of social and health services, prior
35 to October 1, 2008, that based on available information a decision
36 cannot be made that more likely than not, child abuse or neglect did
37 or did not occur.

38 (15) "Institution" means a private or public hospital or any
39 other facility providing medical diagnosis, treatment, or care.

1 (16) "Law enforcement agency" means the police department, the
2 prosecuting attorney, the state patrol, the director of public
3 safety, or the office of the sheriff.

4 (17) "Malice" or "maliciously" means an intent, wish, or design
5 to intimidate, annoy, or injure another person. Such malice may be
6 inferred from an act done in willful disregard of the rights of
7 another, or an act wrongfully done without just cause or excuse, or
8 an act or omission of duty betraying a willful disregard of social
9 duty.

10 (18) "Negligent treatment or maltreatment" means an act or a
11 failure to act, or the cumulative effects of a pattern of conduct,
12 behavior, or inaction, that evidences a serious disregard of
13 consequences of such magnitude as to constitute a clear and present
14 danger to a child's health, welfare, or safety, including but not
15 limited to conduct prohibited under RCW 9A.42.100. (~~When considering
16 whether a clear and present danger exists, evidence of a parent's
17 substance abuse as a contributing factor to negligent treatment or
18 maltreatment shall be given great weight.~~) The fact that siblings
19 share a bedroom is not, in and of itself, negligent treatment or
20 maltreatment. Poverty, homelessness, or exposure to domestic violence
21 as defined in RCW 26.50.010 that is perpetrated against someone other
22 than the child does not constitute negligent treatment or
23 maltreatment in and of itself.

24 (19) "Pharmacist" means any registered pharmacist under chapter
25 18.64 RCW, whether acting in an individual capacity or as an employee
26 or agent of any public or private organization or institution.

27 (20) "Practitioner of the healing arts" or "practitioner" means a
28 person licensed by this state to practice podiatric medicine and
29 surgery, optometry, chiropractic, nursing, dentistry, osteopathic
30 medicine and surgery, or medicine and surgery or to provide other
31 health services. The term "practitioner" includes a duly accredited
32 Christian Science practitioner. A person who is being furnished
33 Christian Science treatment by a duly accredited Christian Science
34 practitioner will not be considered, for that reason alone, a
35 neglected person for the purposes of this chapter.

36 (21) "Prevention and family services and programs" means specific
37 mental health prevention and treatment services, substance abuse
38 prevention and treatment services, and in-home parent skill-based
39 programs that qualify for federal funding under the federal family
40 first prevention services act, P.L. 115-123. For purposes of this

1 chapter, prevention and family services and programs are not remedial
2 services or family reunification services as described in RCW
3 13.34.025(2).

4 (22) "Professional school personnel" include, but are not limited
5 to, teachers, counselors, administrators, child care facility
6 personnel, and school nurses.

7 (23) "Psychologist" means any person licensed to practice
8 psychology under chapter 18.83 RCW, whether acting in an individual
9 capacity or as an employee or agent of any public or private
10 organization or institution.

11 (24) "Screened-out report" means a report of alleged child abuse
12 or neglect that the department has determined does not rise to the
13 level of a credible report of abuse or neglect and is not referred
14 for investigation.

15 (25) "Sexual exploitation" includes: (a) Allowing, permitting, or
16 encouraging a child to engage in prostitution by any person; or (b)
17 allowing, permitting, encouraging, or engaging in the obscene or
18 pornographic photographing, filming, or depicting of a child by any
19 person.

20 (26) "Sexually aggressive youth" means a child who is defined in
21 RCW 74.13.075(1)(b) as being a sexually aggressive youth.

22 (27) "Social service counselor" means anyone engaged in a
23 professional capacity during the regular course of employment in
24 encouraging or promoting the health, welfare, support, or education
25 of children, or providing social services to adults or families,
26 including mental health, drug and alcohol treatment, and domestic
27 violence programs, whether in an individual capacity, or as an
28 employee or agent of any public or private organization or
29 institution.

30 (28) "Unfounded" means the determination following an
31 investigation by the department that available information indicates
32 that, more likely than not, child abuse or neglect did not occur, or
33 that there is insufficient evidence for the department to determine
34 whether the alleged child abuse did or did not occur.

35 **Sec. 9.** RCW 71.12.680 and 2017 c 263 s 3 are each amended to
36 read as follows:

37 (1) An establishment providing pediatric transitional care
38 services to drug exposed infants must demonstrate that it is capable
39 of providing services for children who:

- 1 (a) Are no more than one year of age;
- 2 (b) Have been exposed to drugs before birth;
- 3 (c) Require twenty-four hour continuous residential care and
4 skilled nursing services as a result of prenatal substance exposure;
5 and
- 6 (d) Are referred to the establishment by the department of
7 (~~social and health services~~) children, youth, and families,
8 regional hospitals, and private parties.

9 (2) After January 1, 2019, no person may operate or maintain an
10 establishment that provides pediatric transitional care services
11 without a license under this chapter.

12 **Sec. 10.** RCW 71.12.682 and 2017 c 263 s 4 are each amended to
13 read as follows:

14 For the purposes of this chapter, the rules for pediatric
15 transitional care services are not considered as a new department of
16 (~~social and health services~~) children, youth, and families service
17 category.

18 **Sec. 11.** RCW 71.12.684 and 2017 c 263 s 5 are each amended to
19 read as follows:

20 The secretary must, in consultation with the department of
21 (~~social and health services~~) children, youth, and families, adopt
22 rules on pediatric transitional care services. The rules must:

23 (1) Establish requirements for medical examinations and
24 consultations which must be delivered by an appropriate health care
25 professional;

26 (2) Require twenty-four hour medical supervision for children
27 receiving pediatric transitional services in accordance with the
28 staffing ratios established under subsection (3) of this section;

29 (3) Include staffing ratios that consider the number of
30 registered nurses or licensed practical nurses employed by the
31 establishment and the number of trained caregivers on duty at the
32 establishment. These staffing ratios may not require more than:

33 (a) One registered nurse to be on duty at all times;

34 (b) One registered nurse or licensed practical nurse to eight
35 infants; and

36 (c) One trained caregiver to four infants;

37 (4) Require establishments that provide pediatric transitional
38 care services to prepare weekly plans specific to each infant in

1 their care and in accordance with the health care professional's
2 standing orders. The health care professional may modify an infant's
3 weekly plan without reexamining the infant if he or she determines
4 the modification is in the best interest of the child. This
5 modification may be communicated to the registered nurse on duty at
6 the establishment who must then implement the modification. Weekly
7 plans are to include short-term goals for each infant and outcomes
8 must be included in reports required by the department;

9 (5) Ensure that neonatal abstinence syndrome scoring is conducted
10 by an appropriate health care professional;

11 (6) Establish drug exposed infant developmental screening tests
12 for establishments that provide pediatric transitional care services
13 to administer according to a schedule established by the secretary;

14 (7) Require the establishment to collaborate with the department
15 of (~~social and health services~~) children, youth, and families to
16 develop an individualized safety plan for each child and to meet
17 other contractual requirements of the department of (~~social and~~
18 ~~health services~~) children, youth, and families to identify
19 strategies to meet supervision needs, medical concerns, and family
20 support needs;

21 (8) Establish the maximum amount of days an infant may be placed
22 at an establishment;

23 (9) Develop timelines for initial and ongoing parent-infant
24 visits to nurture and help develop attachment and bonding between the
25 child and parent, (~~if such visits are possible~~) including use of
26 evidence-based, best practices that maintain as much parent-child
27 interaction as possible. Timelines must be developed upon placement
28 of the infant in the establishment providing pediatric transitional
29 care services;

30 (10) Determine how transportation for the infant will be
31 provided, if needed;

32 (11) Establish on-site training requirements for caregivers,
33 volunteers, parents, foster parents, and relatives;

34 (12) Establish background check requirements for caregivers,
35 volunteers, employees, and any other person with unsupervised access
36 to the infants under the care of the establishment; and

37 (13) Establish other requirements necessary to support the infant
38 and the infant's family.

1 **Sec. 12.** RCW 71.12.686 and 2017 c 263 s 6 are each amended to
2 read as follows:

3 After referral by the department of (~~social and health~~
4 ~~services~~) children, youth, and families of an infant to an
5 establishment approved to provide pediatric transitional care
6 services, the department of (~~social and health services~~) children,
7 youth, and families:

8 (1) Retains primary responsibility for case management and must
9 provide consultation to the establishment regarding all placements
10 and permanency planning issues, including developing a parent-child
11 visitation plan;

12 (2) Must work with the department and the establishment to
13 identify and implement evidence-based practices that address current
14 and best medical practices and parent participation; and

15 (3) (~~Work~~) Must work with the establishment to ensure medicaid-
16 eligible services are so billed.

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