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**HOUSE BILL 1903**

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**State of Washington**

**67th Legislature**

**2022 Regular Session**

**By** Representatives Davis, Orwall, Simmons, Ormsby, Harris-Talley, and Duerr

Read first time 01/11/22. Referred to Committee on Children, Youth & Families.

1 AN ACT Relating to holding onto hope and preventing family trauma  
2 by nurturing relationships between biological parents and their  
3 children; amending RCW 13.34.020, 13.34.190, 13.34.210, 26.11.020,  
4 26.11.030, 26.33.295, 71.12.680, 71.12.682, 71.12.684, and 71.12.686;  
5 reenacting and amending RCW 26.44.020 and 26.44.020; providing an  
6 effective date; and providing an expiration date.

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

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

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

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

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

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

34       (5) To maintain consistency and promote good outcomes for  
35 children and families, courts are encouraged to assign the same  
36 judicial officer to a child welfare court case for the duration of  
37 that case.

38       **Sec. 2.** RCW 13.34.190 and 2011 c 309 s 30 are each amended to  
39 read as follows:

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

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

8 (ii) The provisions of RCW 13.34.180(1) (a), (b), (e), and (f)  
9 are established beyond a reasonable doubt and if so, then RCW  
10 13.34.180(1) (c) and (d) may be waived. When an infant has been  
11 abandoned, as defined in RCW 13.34.030, and the abandonment has been  
12 proved beyond a reasonable doubt, then RCW 13.34.180(1) (c) and (d)  
13 may be waived; or

14 (iii) The allegation under RCW 13.34.180(~~((2))~~) (3) is  
15 established beyond a reasonable doubt. In determining whether RCW  
16 13.34.180(1) (e) and (f) are established beyond a reasonable doubt,  
17 the court shall consider whether one or more of the aggravated  
18 circumstances listed in RCW 13.34.132 exist; or

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

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

22 (i) If the court finds that termination of parental rights is in  
23 the child's best interest, the court shall also examine whether it is  
24 in the child's best interest to have posttermination contact with the  
25 parent. It is presumed that contact between the child and the parent  
26 whose rights have been terminated currently is, or in the future will  
27 be, in the child's best interest. To rebut this presumption, the  
28 department must establish by clear, cogent, and convincing evidence  
29 that such contact currently is not, and will never be, in the child's  
30 best interest.

31 (ii) There is a presumption that visitation between the child and  
32 parent whose rights have been terminated will continue or be  
33 reinstated pursuant to an open adoption agreement under RCW  
34 26.33.295, unless the contact is no longer, and will never be, in the  
35 child's best interest. If visitation is not currently in the child's  
36 best interest, the open adoption agreement in RCW 26.33.295 may  
37 include requirements for a birth parent to remedy challenges that led  
38 to the termination prior to reinstatement of visitation.

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

4 **Sec. 3.** RCW 13.34.210 and 2020 c 312 s 120 are each amended to  
5 read as follows:

6 (1) If, upon entering an order terminating the parental rights of  
7 a parent, there remains no parent having parental rights, the court  
8 shall commit the child to the custody of the department willing to  
9 accept custody for the purpose of placing the child for adoption. If  
10 an adoptive home has not been identified, the department shall place  
11 the child in a licensed foster home, or take other suitable measures  
12 for the care and welfare of the child. The custodian shall have  
13 authority to consent to the adoption of the child consistent with  
14 chapter 26.33 RCW, the marriage of the child, the enlistment of the  
15 child in the armed forces of the United States, necessary surgical  
16 and other medical treatment for the child, and to consent to such  
17 other matters as might normally be required of the parent of the  
18 child.

19 (2) The department shall notify any parent whose rights were  
20 terminated of any change in the child's placement until:

21 (a) The child has been adopted; or

22 (b) The court has established a guardianship for the child under  
23 chapter 13.36 RCW or under RCW 11.130.215.

24 (3) If a child has not been adopted within six months after the  
25 date of the order and a guardianship of the child under chapter 13.36  
26 RCW or a guardianship of a minor under RCW 11.130.215 has not been  
27 entered by the court, the court shall review the case every six  
28 months until a decree of adoption is entered. The department shall  
29 take reasonable steps to ensure that the child maintains  
30 relationships with siblings as provided in RCW 13.34.130(7) and shall  
31 report to the court the status and extent of such relationships.

32 (4) A person whose parental rights were terminated may petition  
33 the court for visitation with the child who is in the custody of the  
34 department, and for whom there remains no parent having parental  
35 rights, alleging that it would be in the child's best interest to  
36 allow visitation between the petitioner and the child.

37 (a) A petitioner under this subsection shall:

38 (i) Set forth facts in the affidavit supporting the petitioner's  
39 requested order for visitation; and

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

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

6 (c) During a hearing to consider visitation under this  
7 subsection, the court shall enter an order granting visitation if it  
8 finds that it would be in the child's best interest to visit the  
9 petitioner.

10 (d) A court may not modify or terminate an order granting  
11 visitation under this subsection unless it finds, on the basis of  
12 facts that have arisen since the entry of the order or were unknown  
13 to the court at the time it entered the order, that a substantial  
14 change of circumstances has occurred in the circumstances of the  
15 child or parent and that modification or termination of the order is  
16 necessary for the best interest of the child.

17 **Sec. 4.** RCW 26.11.020 and 2018 c 183 s 2 are each amended to  
18 read as follows:

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

21 ~~((a))~~ (i) The petitioner has an ongoing and substantial  
22 relationship with the child;

23 ~~((b))~~ (ii) The petitioner is a relative of the child or a  
24 relative of a parent of the child; and

25 ~~((c))~~ (iii) The child is likely to suffer harm or a substantial  
26 risk of harm if visitation is denied.

27 ~~((2))~~ (b) A person has established an ongoing and substantial  
28 relationship with a child if the person and the child have had a  
29 relationship formed and sustained through interaction, companionship,  
30 and mutuality of interest and affection, without expectation of  
31 financial compensation, with substantial continuity for at least two  
32 years unless the child is under the age of two years, in which case  
33 there must be substantial continuity for at least half of the child's  
34 life, and with a shared expectation of and desire for an ongoing  
35 relationship.

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

1 (i) The person has successfully addressed the parental  
2 deficiencies that led to the termination or relinquishment of  
3 parental rights; and

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

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

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

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

16 (iii) Is currently successfully parenting or caregiving for a  
17 child or children; and

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

20 (c) If aggravated circumstances under RCW 13.34.132 exist, the  
21 parent for whom those aggravated circumstances exist is not eligible  
22 for visitation under this section.

23 **Sec. 5.** RCW 26.11.030 and 2018 c 183 s 3 are each amended to  
24 read as follows:

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

28 (2) Except as otherwise provided in subsection (1) of this  
29 section, if a court has exclusive original jurisdiction over the  
30 child under RCW 13.04.030(1) (a) through (d) ~~((g))~~ or (h), ~~((or ~~(j)~~))~~  
31 a petition for visitation under RCW 26.11.020 must be filed with that  
32 court. Granting of a petition for visitation under this chapter does  
33 not entitle the petitioner to party status in a child custody  
34 proceeding under Title 13 RCW.

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

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

1 (5) The petitioner must file with the petition an affidavit  
2 alleging that:

3 (a) (i) A relationship with the child that satisfies the  
4 requirements of RCW 26.11.020(1) exists or existed before action by  
5 the respondent; or (ii) the petitioner meets the criteria in RCW  
6 26.11.020(2); and

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

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

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

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

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

20 **Sec. 6.** RCW 26.33.295 and 2009 c 234 s 3 are each amended to  
21 read as follows:

22 (1) Nothing in this chapter shall be construed to prohibit the  
23 parties to a proceeding under this chapter from entering into  
24 agreements regarding communication with or contact between child  
25 adoptees, adoptive parents, siblings of child adoptees, and a birth  
26 parent or parents.

27 (2) Agreements regarding communication with or contact between  
28 child adoptees, adoptive parents, siblings of child adoptees, and a  
29 birth parent or parents shall not be legally enforceable unless the  
30 terms of the agreement are set forth in a written court order entered  
31 in accordance with the provisions of this section. The court shall  
32 not enter a proposed order unless the terms of such order have been  
33 approved in writing by the prospective adoptive parents, any birth  
34 parent (~~whose parental rights have not previously been terminated~~),  
35 and, if the child or siblings of the child are in the custody of the  
36 department or a licensed child-placing agency, a representative of  
37 the department or child-placing agency. If the child is represented  
38 by an attorney or guardian ad litem in a proceeding under this  
39 chapter or in any other child-custody proceeding, the terms of the

1 proposed order also must be approved in writing by the child's  
2 representative. An agreement under this section need not disclose the  
3 identity of the parties to be legally enforceable. The court shall  
4 not enter a proposed order unless the court finds that the  
5 communication or contact with the child adoptee, as agreed upon and  
6 as set forth in the proposed order, would be in the child adoptee's  
7 best interests.

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

13 (4) An agreed order entered pursuant to this section may be  
14 enforced by a civil action in the court which entered the open  
15 adoption agreed order and the prevailing party in that action may be  
16 awarded, as part of the costs of the action, a reasonable amount to  
17 be fixed by the court as attorneys' fees and civil fines of up to  
18 \$300 for each missed visit or violation of a contact provision  
19 required by the open adoption agreed order. The court shall not  
20 modify an agreed order under this section unless it finds that the  
21 modification is necessary to serve the best interests of the child  
22 adoptee, and that: (a) The modification is agreed to by the adoptive  
23 parent and the birth parent or parents; or (b) exceptional  
24 circumstances have arisen since the agreed order was entered that  
25 justify modification of the order. Exceptional circumstances under  
26 this subsection include, but are not limited to:

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

29 (ii) Visitation or contact provisions which are no longer  
30 possible to follow; or

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

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



1       **Sec. 7.** RCW 26.44.020 and 2021 c 67 s 3 are each reenacted and  
2 amended to read as follows:

3       The definitions in this section apply throughout this chapter  
4 unless the context clearly requires otherwise.

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

12       (2) "Child" or "children" means any person under the age of  
13 (~~eighteen~~) 18 years of age.

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

20       (4) "Child protective services" means those services provided by  
21 the department designed to protect children from child abuse and  
22 neglect and safeguard such children from future abuse and neglect,  
23 and conduct investigations of child abuse and neglect reports.  
24 Investigations may be conducted regardless of the location of the  
25 alleged abuse or neglect. Child protective services includes referral  
26 to services to ameliorate conditions that endanger the welfare of  
27 children, the coordination of necessary programs and services  
28 relevant to the prevention, intervention, and treatment of child  
29 abuse and neglect, and services to children to ensure that each child  
30 has a permanent home. In determining whether protective services  
31 should be provided, the department shall not decline to provide such  
32 services solely because of the child's unwillingness or developmental  
33 inability to describe the nature and severity of the abuse or  
34 neglect.

35       (5) "Child protective services section" means the child  
36 protective services section of the department.

37       (6) "Child who is a candidate for foster care" means a child who  
38 the department identifies as being at imminent risk of entering  
39 foster care but who can remain safely in the child's home or in a  
40 kinship placement as long as services or programs that are necessary

1 to prevent entry of the child into foster care are provided, and  
2 includes but is not limited to a child whose adoption or guardianship  
3 arrangement is at risk of a disruption or dissolution that would  
4 result in a foster care placement. The term includes a child for whom  
5 there is reasonable cause to believe that any of the following  
6 circumstances exist:

7 (a) The child has been abandoned by the parent as defined in RCW  
8 13.34.030 and the child's health, safety, and welfare is seriously  
9 endangered as a result;

10 (b) The child has been abused or neglected as defined in this  
11 chapter and the child's health, safety, and welfare is seriously  
12 endangered as a result;

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

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

17 (7) "Children's advocacy center" means a child-focused facility  
18 in good standing with the state chapter for children's advocacy  
19 centers and that coordinates a multidisciplinary process for the  
20 investigation, prosecution, and treatment of sexual and other types  
21 of child abuse. Children's advocacy centers provide a location for  
22 forensic interviews and coordinate access to services such as, but  
23 not limited to, medical evaluations, advocacy, therapy, and case  
24 review by multidisciplinary teams within the context of county  
25 protocols as defined in RCW 26.44.180 and 26.44.185.

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

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

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

34 (11) "Experiencing homelessness" means lacking a fixed, regular,  
35 and adequate nighttime residence, including circumstances such as  
36 sharing the housing of other persons due to loss of housing, economic  
37 hardship, fleeing domestic violence, or a similar reason as described  
38 in the federal McKinney-Vento homeless assistance act (Title 42  
39 U.S.C., chapter 119, subchapter I) as it existed on January 1, 2021.

1 (12) "Family assessment" means a comprehensive assessment of  
2 child safety, risk of subsequent child abuse or neglect, and family  
3 strengths and needs that is applied to a child abuse or neglect  
4 report. Family assessment does not include a determination as to  
5 whether child abuse or neglect occurred, but does determine the need  
6 for services to address the safety of the child and the risk of  
7 subsequent maltreatment.

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

20 (14) "Founded" means the determination following an investigation  
21 by the department that, based on available information, it is more  
22 likely than not that child abuse or neglect did occur.

23 (15) "Inconclusive" means the determination following an  
24 investigation by the department of social and health services, prior  
25 to October 1, 2008, that based on available information a decision  
26 cannot be made that more likely than not, child abuse or neglect did  
27 or did not occur.

28 (16) "Institution" means a private or public hospital or any  
29 other facility providing medical diagnosis, treatment, or care.

30 (17) "Law enforcement agency" means the police department, the  
31 prosecuting attorney, the state patrol, the director of public  
32 safety, or the office of the sheriff.

33 (18) "Malice" or "maliciously" means an intent, wish, or design  
34 to intimidate, annoy, or injure another person. Such malice may be  
35 inferred from an act done in willful disregard of the rights of  
36 another, or an act wrongfully done without just cause or excuse, or  
37 an act or omission of duty betraying a willful disregard of social  
38 duty.

39 (19) "Negligent treatment or maltreatment" means an act or a  
40 failure to act, or the cumulative effects of a pattern of conduct,

1 behavior, or inaction, that evidences a serious disregard of  
2 consequences of such magnitude as to constitute a clear and present  
3 danger to a child's health, welfare, or safety, including but not  
4 limited to conduct prohibited under RCW 9A.42.100. (~~When considering~~  
5 ~~whether a clear and present danger exists, evidence of a parent's~~  
6 ~~substance abuse as a contributing factor to negligent treatment or~~  
7 ~~maltreatment shall be given great weight.)) The fact that siblings  
8 share a bedroom is not, in and of itself, negligent treatment or  
9 maltreatment. Poverty, experiencing homelessness, or exposure to  
10 domestic violence as defined in RCW 26.50.010 that is perpetrated  
11 against someone other than the child does not constitute negligent  
12 treatment or maltreatment in and of itself.~~

13 (20) "Pharmacist" means any registered pharmacist under chapter  
14 18.64 RCW, whether acting in an individual capacity or as an employee  
15 or agent of any public or private organization or institution.

16 (21) "Practitioner of the healing arts" or "practitioner" means a  
17 person licensed by this state to practice podiatric medicine and  
18 surgery, optometry, chiropractic, nursing, dentistry, osteopathic  
19 medicine and surgery, or medicine and surgery or to provide other  
20 health services. The term "practitioner" includes a duly accredited  
21 Christian Science practitioner. A person who is being furnished  
22 Christian Science treatment by a duly accredited Christian Science  
23 practitioner will not be considered, for that reason alone, a  
24 neglected person for the purposes of this chapter.

25 (22) "Prevention and family services and programs" means specific  
26 mental health prevention and treatment services, substance abuse  
27 prevention and treatment services, and in-home parent skill-based  
28 programs that qualify for federal funding under the federal family  
29 first prevention services act, P.L. 115-123. For purposes of this  
30 chapter, prevention and family services and programs are not remedial  
31 services or family reunification services as described in RCW  
32 13.34.025(2).

33 (23) "Professional school personnel" include, but are not limited  
34 to, teachers, counselors, administrators, child care facility  
35 personnel, and school nurses.

36 (24) "Psychologist" means any person licensed to practice  
37 psychology under chapter 18.83 RCW, whether acting in an individual  
38 capacity or as an employee or agent of any public or private  
39 organization or institution.

1 (25) "Screened-out report" means a report of alleged child abuse  
2 or neglect that the department has determined does not rise to the  
3 level of a credible report of abuse or neglect and is not referred  
4 for investigation.

5 (26) "Sexual exploitation" includes: (a) Allowing, permitting, or  
6 encouraging a child to engage in prostitution by any person; or (b)  
7 allowing, permitting, encouraging, or engaging in the obscene or  
8 pornographic photographing, filming, or depicting of a child by any  
9 person.

10 (27) "Sexually aggressive youth" means a child who is defined in  
11 RCW 74.13.075(1)(b) as being a sexually aggressive youth.

12 (28) "Social service counselor" means anyone engaged in a  
13 professional capacity during the regular course of employment in  
14 encouraging or promoting the health, welfare, support, or education  
15 of children, or providing social services to adults or families,  
16 including mental health, drug and alcohol treatment, and domestic  
17 violence programs, whether in an individual capacity, or as an  
18 employee or agent of any public or private organization or  
19 institution.

20 (29) "Unfounded" means the determination following an  
21 investigation by the department that available information indicates  
22 that, more likely than not, child abuse or neglect did not occur, or  
23 that there is insufficient evidence for the department to determine  
24 whether the alleged child abuse did or did not occur.

25 **Sec. 8.** RCW 26.44.020 and 2021 c 215 s 142 and 2021 c 67 s 3 are  
26 each reenacted and amended to read as follows:

27 The definitions in this section apply throughout this chapter  
28 unless the context clearly requires otherwise.

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

36 (2) "Child" or "children" means any person under the age of  
37 (~~eighteen~~) 18 years of age.

38 (3) "Child forensic interview" means a developmentally sensitive  
39 and legally sound method of gathering factual information regarding

1 allegations of child abuse, child neglect, or exposure to violence.  
2 This interview is conducted by a competently trained, neutral  
3 professional utilizing techniques informed by research and best  
4 practice as part of a larger investigative process.

5 (4) "Child protective services" means those services provided by  
6 the department designed to protect children from child abuse and  
7 neglect and safeguard such children from future abuse and neglect,  
8 and conduct investigations of child abuse and neglect reports.  
9 Investigations may be conducted regardless of the location of the  
10 alleged abuse or neglect. Child protective services includes referral  
11 to services to ameliorate conditions that endanger the welfare of  
12 children, the coordination of necessary programs and services  
13 relevant to the prevention, intervention, and treatment of child  
14 abuse and neglect, and services to children to ensure that each child  
15 has a permanent home. In determining whether protective services  
16 should be provided, the department shall not decline to provide such  
17 services solely because of the child's unwillingness or developmental  
18 inability to describe the nature and severity of the abuse or  
19 neglect.

20 (5) "Child protective services section" means the child  
21 protective services section of the department.

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

32 (a) The child has been abandoned by the parent as defined in RCW  
33 13.34.030 and the child's health, safety, and welfare is seriously  
34 endangered as a result;

35 (b) The child has been abused or neglected as defined in this  
36 chapter and the child's health, safety, and welfare is seriously  
37 endangered as a result;

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

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

2 (7) "Children's advocacy center" means a child-focused facility  
3 in good standing with the state chapter for children's advocacy  
4 centers and that coordinates a multidisciplinary process for the  
5 investigation, prosecution, and treatment of sexual and other types  
6 of child abuse. Children's advocacy centers provide a location for  
7 forensic interviews and coordinate access to services such as, but  
8 not limited to, medical evaluations, advocacy, therapy, and case  
9 review by multidisciplinary teams within the context of county  
10 protocols as defined in RCW 26.44.180 and 26.44.185.

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

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

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

19 (11) "Experiencing homelessness" means lacking a fixed, regular,  
20 and adequate nighttime residence, including circumstances such as  
21 sharing the housing of other persons due to loss of housing, economic  
22 hardship, fleeing domestic violence, or a similar reason as described  
23 in the federal McKinney-Vento homeless assistance act (Title 42  
24 U.S.C., chapter 119, subchapter I) as it existed on January 1, 2021.

25 (12) "Family assessment" means a comprehensive assessment of  
26 child safety, risk of subsequent child abuse or neglect, and family  
27 strengths and needs that is applied to a child abuse or neglect  
28 report. Family assessment does not include a determination as to  
29 whether child abuse or neglect occurred, but does determine the need  
30 for services to address the safety of the child and the risk of  
31 subsequent maltreatment.

32 (13) "Family assessment response" means a way of responding to  
33 certain reports of child abuse or neglect made under this chapter  
34 using a differential response approach to child protective services.  
35 The family assessment response shall focus on the safety of the  
36 child, the integrity and preservation of the family, and shall assess  
37 the status of the child and the family in terms of risk of abuse and  
38 neglect including the parent's or guardian's or other caretaker's  
39 capacity and willingness to protect the child and, if necessary, plan  
40 and arrange the provision of services to reduce the risk and

1 otherwise support the family. No one is named as a perpetrator, and  
2 no investigative finding is entered in the record as a result of a  
3 family assessment.

4 (14) "Founded" means the determination following an investigation  
5 by the department that, based on available information, it is more  
6 likely than not that child abuse or neglect did occur.

7 (15) "Inconclusive" means the determination following an  
8 investigation by the department of social and health services, prior  
9 to October 1, 2008, that based on available information a decision  
10 cannot be made that more likely than not, child abuse or neglect did  
11 or did not occur.

12 (16) "Institution" means a private or public hospital or any  
13 other facility providing medical diagnosis, treatment, or care.

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

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

23 (19) "Negligent treatment or maltreatment" means an act or a  
24 failure to act, or the cumulative effects of a pattern of conduct,  
25 behavior, or inaction, that evidences a serious disregard of  
26 consequences of such magnitude as to constitute a clear and present  
27 danger to a child's health, welfare, or safety, including but not  
28 limited to conduct prohibited under RCW 9A.42.100. (~~When considering  
29 whether a clear and present danger exists, evidence of a parent's  
30 substance abuse as a contributing factor to negligent treatment or  
31 maltreatment shall be given great weight.~~) The fact that siblings  
32 share a bedroom is not, in and of itself, negligent treatment or  
33 maltreatment. Poverty, experiencing homelessness, or exposure to  
34 domestic violence as defined in RCW 7.105.010 that is perpetrated  
35 against someone other than the child does not constitute negligent  
36 treatment or maltreatment in and of itself.

37 (20) "Pharmacist" means any registered pharmacist under chapter  
38 18.64 RCW, whether acting in an individual capacity or as an employee  
39 or agent of any public or private organization or institution.



1 (21) "Practitioner of the healing arts" or "practitioner" means a  
2 person licensed by this state to practice podiatric medicine and  
3 surgery, optometry, chiropractic, nursing, dentistry, osteopathic  
4 medicine and surgery, or medicine and surgery or to provide other  
5 health services. The term "practitioner" includes a duly accredited  
6 Christian Science practitioner. A person who is being furnished  
7 Christian Science treatment by a duly accredited Christian Science  
8 practitioner will not be considered, for that reason alone, a  
9 neglected person for the purposes of this chapter.

10 (22) "Prevention and family services and programs" means specific  
11 mental health prevention and treatment services, substance abuse  
12 prevention and treatment services, and in-home parent skill-based  
13 programs that qualify for federal funding under the federal family  
14 first prevention services act, P.L. 115-123. For purposes of this  
15 chapter, prevention and family services and programs are not remedial  
16 services or family reunification services as described in RCW  
17 13.34.025(2).

18 (23) "Professional school personnel" include, but are not limited  
19 to, teachers, counselors, administrators, child care facility  
20 personnel, and school nurses.

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

25 (25) "Screened-out report" means a report of alleged child abuse  
26 or neglect that the department has determined does not rise to the  
27 level of a credible report of abuse or neglect and is not referred  
28 for investigation.

29 (26) "Sexual exploitation" includes: (a) Allowing, permitting, or  
30 encouraging a child to engage in prostitution by any person; or (b)  
31 allowing, permitting, encouraging, or engaging in the obscene or  
32 pornographic photographing, filming, or depicting of a child by any  
33 person.

34 (27) "Sexually aggressive youth" means a child who is defined in  
35 RCW 74.13.075(1)(b) as being a sexually aggressive youth.

36 (28) "Social service counselor" means anyone engaged in a  
37 professional capacity during the regular course of employment in  
38 encouraging or promoting the health, welfare, support, or education  
39 of children, or providing social services to adults or families,  
40 including mental health, drug and alcohol treatment, and domestic

1 violence programs, whether in an individual capacity, or as an  
2 employee or agent of any public or private organization or  
3 institution.

4 (29) "Unfounded" means the determination following an  
5 investigation by the department that available information indicates  
6 that, more likely than not, child abuse or neglect did not occur, or  
7 that there is insufficient evidence for the department to determine  
8 whether the alleged child abuse did or did not occur.

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

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

14 (a) Are no more than one year of age;

15 (b) Have been exposed to drugs before birth;

16 (c) Require (~~twenty-four~~) 24-hour continuous residential care  
17 and skilled nursing services as a result of prenatal substance  
18 exposure; and

19 (d) Are referred to the establishment by the department of  
20 (~~social and health services~~) children, youth, and families,  
21 regional hospitals, and private parties.

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

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

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

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

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

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

4 (2) Require (~~twenty-four~~) 24-hour medical supervision for  
5 children receiving pediatric transitional services in accordance with  
6 the staffing ratios established under subsection (3) of this section;

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

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

12 (b) One registered nurse or licensed practical nurse to eight  
13 infants; and

14 (c) One trained caregiver to four infants;

15 (4) Require establishments that provide pediatric transitional  
16 care services to prepare weekly plans specific to each infant in  
17 their care and in accordance with the health care professional's  
18 standing orders. The health care professional may modify an infant's  
19 weekly plan without reexamining the infant if he or she determines  
20 the modification is in the best interest of the child. This  
21 modification may be communicated to the registered nurse on duty at  
22 the establishment who must then implement the modification. Weekly  
23 plans are to include short-term goals for each infant and outcomes  
24 must be included in reports required by the department;

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

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

30 (7) Require the establishment to collaborate with the department  
31 of (~~social and health services~~) children, youth, and families to  
32 develop an individualized safety plan for each child and to meet  
33 other contractual requirements of the department of (~~social and~~  
34 ~~health services~~) children, youth, and families to identify  
35 strategies to meet supervision needs, medical concerns, and family  
36 support needs;

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

39 (9) Develop timelines for initial and ongoing parent-infant  
40 visits to nurture and help develop attachment and bonding between the

1 child and parent, (~~if such visits are~~) including use of evidence-  
2 based, best practices that maintain as much parent-child interaction  
3 as possible. Timelines must be developed upon placement of the infant  
4 in the establishment providing pediatric transitional care services;

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

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

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

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

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

16 After referral by the department of (~~social and health~~  
17 ~~services~~) children, youth, and families of an infant to an  
18 establishment approved to provide pediatric transitional care  
19 services, the department of (~~social and health services~~) children,  
20 youth, and families:

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

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

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

30 NEW SECTION. **Sec. 13.** Section 7 of this act expires July 1,  
31 2022.

32 NEW SECTION. **Sec. 14.** Section 8 of this act takes effect July  
33 1, 2022.

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