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**SUBSTITUTE HOUSE BILL 2038**

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**State of Washington**

**67th Legislature**

**2022 Regular Session**

**By** House Children, Youth & Families (originally sponsored by Representatives Caldier and Eslick)

READ FIRST TIME 02/03/22.

1 AN ACT Relating to supporting children involved with child  
2 welfare services; amending RCW 74.13.031 and 74.14B.010; adding new  
3 sections to chapter 74.13 RCW; adding a new section to chapter 74.15  
4 RCW; creating new sections; providing expiration dates; and providing  
5 a contingent expiration date.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 74.13  
8 RCW to read as follows:

9 (1)(a) The department shall provide exceptional cost payments and  
10 other nonmonetary supports to a licensed foster parent that receives  
11 placement of a child: (i) With high levels of service and support  
12 needs and who is at risk of placement disruption; or (ii) who was  
13 placed in a group-care facility as defined under RCW 74.15.020 during  
14 the previous three months.

15 (b) The high levels of service and support needs that may lead to  
16 exceptional cost payments under (a) of this subsection can include,  
17 but are not limited to:

- 18 (i) A history of placement instability;  
19 (ii) Moderate to high behavioral health service needs;  
20 (iii) Disabilities;  
21 (iv) Chronic health conditions; or

1 (v) A need for intensive services.

2 (2) (a) The initial exceptional cost payment provided under  
3 subsection (1) of this section must be made upon placement of the  
4 child and must not be below one-half of the payment that would  
5 otherwise be provided for therapeutic foster care for the initial 30  
6 days.

7 (b) Within the first 30 days, an ongoing foster care payment rate  
8 should be developed, and this foster care payment rate must be  
9 sufficient to cover transportation to and from medical appointments  
10 and other costs required to provide care for the child. The amount  
11 developed under this subsection may exceed the level four foster care  
12 payment rate.

13 (c) The department shall provide the amount developed in (b) of  
14 this subsection to the licensed foster parent for six months or until  
15 the child is no longer in the care of the foster parent. After the  
16 licensed foster parent has cared for the child for six months, the  
17 department shall negotiate an appropriate payment with the foster  
18 parent who is caring for a child meeting the description provided  
19 under subsection (1) of this section. This negotiated foster care  
20 payment should be sufficient to cover transportation to and from  
21 medical appointments and other costs required to provide care for the  
22 child.

23 (d) The department shall provide information to foster parents  
24 who are eligible for support under this section about what the  
25 exceptional cost payment and other nonmonetary support includes and  
26 can be used for.

27 **Sec. 2.** RCW 74.13.031 and 2020 c 274 s 61 are each amended to  
28 read as follows:

29 (1) The department shall develop, administer, supervise, and  
30 monitor a coordinated and comprehensive plan that establishes, aids,  
31 and strengthens services for the protection and care of runaway,  
32 dependent, or neglected children.

33 (2) Within available resources, the department shall recruit an  
34 adequate number of prospective adoptive and foster homes, both  
35 regular and specialized, i.e. homes for children of ethnic minority,  
36 including Indian homes for Indian children, sibling groups, children  
37 with disabilities or behavioral health conditions, teens, pregnant  
38 and parenting teens, and the department shall annually report to the  
39 governor and the legislature concerning the department's success in:

1 (a) Meeting the need for adoptive and foster home placements; (b)  
2 reducing the foster parent turnover rate; (c) completing home studies  
3 for legally free children; and (d) implementing and operating the  
4 passport program required by RCW 74.13.285. The report shall include  
5 a section entitled "Foster Home Turn-Over, Causes and  
6 Recommendations."

7 (3) The department shall investigate complaints of any recent act  
8 or failure to act on the part of a parent or caretaker that results  
9 in death, serious physical or emotional harm, or sexual abuse or  
10 exploitation, or that presents an imminent risk of serious harm, and  
11 on the basis of the findings of such investigation, offer child  
12 welfare services in relation to the problem to such parents, legal  
13 custodians, or persons serving in loco parentis, and/or bring the  
14 situation to the attention of an appropriate court, or another  
15 community agency. An investigation is not required of nonaccidental  
16 injuries which are clearly not the result of a lack of care or  
17 supervision by the child's parents, legal custodians, or persons  
18 serving in loco parentis. If the investigation reveals that a crime  
19 against a child may have been committed, the department shall notify  
20 the appropriate law enforcement agency.

21 (4) As provided in RCW 26.44.030, the department may respond to a  
22 report of child abuse or neglect by using the family assessment  
23 response.

24 (5) The department shall offer, on a voluntary basis, family  
25 reconciliation services to families who are in conflict.

26 (6) The department shall monitor placements of children in out-  
27 of-home care and in-home dependencies to assure the safety, well-  
28 being, and quality of care being provided is within the scope of the  
29 intent of the legislature as defined in RCW 74.13.010 and 74.15.010.  
30 Under this section children in out-of-home care and in-home  
31 dependencies and their caregivers shall receive a private and  
32 individual face-to-face visit each month. The department shall  
33 randomly select no less than (~~ten~~) 10 percent of the caregivers  
34 currently providing care to receive one unannounced face-to-face  
35 visit in the caregiver's home per year. No caregiver will receive an  
36 unannounced visit through the random selection process for two  
37 consecutive years. If the caseworker makes a good faith effort to  
38 conduct the unannounced visit to a caregiver and is unable to do so,  
39 that month's visit to that caregiver need not be unannounced. The  
40 department is encouraged to group monthly visits to caregivers by

1 geographic area so that in the event an unannounced visit cannot be  
2 completed, the caseworker may complete other required monthly visits.  
3 The department shall use a method of random selection that does not  
4 cause a fiscal impact to the department.

5 The department shall conduct the monthly visits with children and  
6 caregivers to whom it is providing child welfare services.

7 (7) The department shall have authority to accept custody of  
8 children from parents and to accept custody of children from juvenile  
9 courts, where authorized to do so under law, to provide child welfare  
10 services including placement for adoption, to provide for the routine  
11 and necessary medical, dental, and mental health care, or necessary  
12 emergency care of the children, and to provide for the physical care  
13 of such children and make payment of maintenance costs if needed,  
14 including those required under section 1 of this act. Except where  
15 required by Public Law 95-608 (25 U.S.C. Sec. 1915), no private  
16 adoption agency which receives children for adoption from the  
17 department shall discriminate on the basis of race, creed, or color  
18 when considering applications in their placement for adoption.

19 (8) The department shall have authority to provide temporary  
20 shelter to children who have run away from home and who are admitted  
21 to crisis residential centers.

22 (9) The department shall have authority to purchase care for  
23 children.

24 (10) The department shall establish a children's services  
25 advisory committee which shall assist the secretary in the  
26 development of a partnership plan for utilizing resources of the  
27 public and private sectors, and advise on all matters pertaining to  
28 child welfare, licensing of child care agencies, adoption, and  
29 services related thereto. At least one member shall represent the  
30 adoption community.

31 (11)(a) The department shall provide continued extended foster  
32 care services to nonminor dependents who are:

33 (i) Enrolled in a secondary education program or a secondary  
34 education equivalency program;

35 (ii) Enrolled and participating in a postsecondary academic or  
36 postsecondary vocational education program;

37 (iii) Participating in a program or activity designed to promote  
38 employment or remove barriers to employment;

39 (iv) Engaged in employment for (~~eighty~~) 80 hours or more per  
40 month; or

1 (v) Not able to engage in any of the activities described in  
2 (a)(i) through (iv) of this subsection due to a documented medical  
3 condition.

4 (b) To be eligible for extended foster care services, the  
5 nonminor dependent must have been dependent at the time that he or  
6 she reached age (~~(eighteen)~~) 18 years. If the dependency case of the  
7 nonminor dependent was dismissed pursuant to RCW 13.34.267, he or she  
8 may receive extended foster care services pursuant to a voluntary  
9 placement agreement under RCW 74.13.336 or pursuant to an order of  
10 dependency issued by the court under RCW 13.34.268. A nonminor  
11 dependent whose dependency case was dismissed by the court may  
12 request extended foster care services before reaching age (~~(twenty-~~  
13 ~~one)~~) 21 years. Eligible nonminor dependents may unenroll and  
14 reenroll in extended foster care through a voluntary placement  
15 agreement an unlimited number of times between ages (~~(eighteen)~~) 18  
16 and (~~(twenty-one)~~) 21.

17 (c) The department shall develop and implement rules regarding  
18 youth eligibility requirements.

19 (d) The department shall make efforts to ensure that extended  
20 foster care services maximize medicaid reimbursements. This must  
21 include the department ensuring that health and mental health  
22 extended foster care providers participate in medicaid, unless the  
23 condition of the extended foster care youth requires specialty care  
24 that is not available among participating medicaid providers or there  
25 are no participating medicaid providers in the area. The department  
26 shall coordinate other services to maximize federal resources and the  
27 most cost-efficient delivery of services to extended foster care  
28 youth.

29 (e) The department shall allow a youth who has received extended  
30 foster care services, but lost his or her eligibility, to reenter the  
31 extended foster care program an unlimited number of times through a  
32 voluntary placement agreement when he or she meets the eligibility  
33 criteria again.

34 (12) The department shall have authority to provide adoption  
35 support benefits, or relative guardianship subsidies on behalf of  
36 youth ages (~~(eighteen)~~) 18 to (~~(twenty-one)~~) 21 years who achieved  
37 permanency through adoption or a relative guardianship at age  
38 (~~(sixteen)~~) 16 or older and who meet the criteria described in  
39 subsection (11) of this section.

1 (13) The department shall refer cases to the division of child  
2 support whenever state or federal funds are expended for the care and  
3 maintenance of a child, including a child with a developmental  
4 disability who is placed as a result of an action under chapter 13.34  
5 RCW, unless the department finds that there is good cause not to  
6 pursue collection of child support against the parent or parents of  
7 the child. Cases involving individuals age (~~(eighteen)~~) 18 through  
8 (~~(twenty)~~) 20 shall not be referred to the division of child support  
9 unless required by federal law.

10 (14) The department shall have authority within funds  
11 appropriated for foster care services to purchase care for Indian  
12 children who are in the custody of a federally recognized Indian  
13 tribe or tribally licensed child-placing agency pursuant to parental  
14 consent, tribal court order, or state juvenile court order. The  
15 purchase of such care is exempt from the requirements of chapter  
16 74.13B RCW and may be purchased from the federally recognized Indian  
17 tribe or tribally licensed child-placing agency, and shall be subject  
18 to the same eligibility standards and rates of support applicable to  
19 other children for whom the department purchases care.

20 Notwithstanding any other provision of RCW 13.32A.170 through  
21 13.32A.200, 43.185C.295, 74.13.035, and 74.13.036, or of this section  
22 all services to be provided by the department under subsections (4),  
23 (7), and (8) of this section, subject to the limitations of these  
24 subsections, may be provided by any program offering such services  
25 funded pursuant to Titles II and III of the federal juvenile justice  
26 and delinquency prevention act of 1974.

27 (15) Within amounts appropriated for this specific purpose, the  
28 department shall provide preventive services to families with  
29 children that prevent or shorten the duration of an out-of-home  
30 placement.

31 (16) The department shall have authority to provide independent  
32 living services to youths, including individuals who have attained  
33 (~~(eighteen)~~) 18 years of age, and have not attained (~~(twenty-three)~~)  
34 23 years of age, who are or have been in the department's care and  
35 custody, or who are or were nonminor dependents.

36 (17) The department shall consult at least quarterly with foster  
37 parents, including members of the foster parent association of  
38 Washington state, for the purpose of receiving information and  
39 comment regarding how the department is performing the duties and  
40 meeting the obligations specified in this section and RCW 74.13.250

1 regarding the recruitment of foster homes, reducing foster parent  
2 turnover rates, providing effective training for foster parents, and  
3 administering a coordinated and comprehensive plan that strengthens  
4 services for the protection of children. Consultation shall occur at  
5 the regional and statewide levels.

6 (18)(a) The department shall, within current funding levels,  
7 place on its public web site a document listing the duties and  
8 responsibilities the department has to a child subject to a  
9 dependency petition including, but not limited to, the following:

10 (i) Reasonable efforts, including the provision of services,  
11 toward reunification of the child with his or her family;

12 (ii) Sibling visits subject to the restrictions in RCW  
13 13.34.136(2)(b)(ii);

14 (iii) Parent-child visits;

15 (iv) Statutory preference for placement with a relative or other  
16 suitable person, if appropriate; and

17 (v) Statutory preference for an out-of-home placement that allows  
18 the child to remain in the same school or school district, if  
19 practical and in the child's best interests.

20 (b) The document must be prepared in conjunction with a  
21 community-based organization and must be updated as needed.

22 (19)(a) The department shall have the authority to purchase legal  
23 representation for parents or kinship caregivers, or both, of  
24 children who are at risk of being dependent, or who are dependent, to  
25 establish or modify a parenting plan under RCW 13.34.155 or chapter  
26 26.09, 26.26A, or 26.26B RCW or secure orders establishing other  
27 relevant civil legal relationships authorized by law, when it is  
28 necessary for the child's safety, permanence, or well-being. The  
29 department's purchase of legal representation for kinship caregivers  
30 must be within the department's appropriations. This subsection does  
31 not create an entitlement to legal representation purchased by the  
32 department and does not create judicial authority to order the  
33 department to purchase legal representation for a parent or kinship  
34 caregiver. Such determinations are solely within the department's  
35 discretion. The term "kinship caregiver" as used in this section  
36 means a caregiver who meets the definition of "kin" in RCW  
37 74.13.600(1), unless the child is an Indian child as defined in RCW  
38 13.38.040 and 25 U.S.C. Sec. 1903. For an Indian child as defined in  
39 RCW 13.38.040 and 25 U.S.C. Sec. 1903, the term "kinship caregiver"

1 as used in this section means a caregiver who is an "extended family  
2 member" as defined in RCW 13.38.040(8).

3 (b) The department is encouraged to work with the office of  
4 public defense parent representation program and the office of civil  
5 legal aid to develop a cost-effective system for providing effective  
6 civil legal representation for parents and kinship caregivers if it  
7 exercises its authority under this subsection.

8 **Sec. 3.** RCW 74.14B.010 and 2019 c 470 s 27 are each amended to  
9 read as follows:

10 (1) Child welfare workers shall meet minimum standards  
11 established by the department. Comprehensive training for child  
12 welfare workers shall be completed before such child welfare workers  
13 are assigned to case-carrying responsibilities as the sole worker  
14 assigned to a particular case. Intermittent, part-time, and standby  
15 child welfare workers shall be subject to the same minimum standards  
16 and training.

17 (2) Ongoing specialized training shall be provided for child  
18 welfare workers responsible for investigating child sexual abuse.  
19 Training participants shall have the opportunity to practice  
20 interview skills and receive feedback from instructors.

21 (3) The department, the criminal justice training commission, the  
22 Washington association of sheriffs and police chiefs, and the  
23 Washington association of prosecuting attorneys shall design and  
24 implement statewide training that contains consistent elements for  
25 persons engaged in the interviewing of children, including law  
26 enforcement, prosecution, and child protective services.

27 (4) The training required by this section shall: (a) Be based on  
28 research-based practices and standards; (b) minimize the trauma of  
29 all persons who are interviewed during abuse investigations; (c)  
30 provide methods of reducing the number of investigative interviews  
31 necessary whenever possible; (d) assure, to the extent possible, that  
32 investigative interviews are thorough, objective, and complete; (e)  
33 recognize needs of special populations, such as persons with  
34 developmental disabilities; (f) recognize the nature and consequences  
35 of victimization; (g) require investigative interviews to be  
36 conducted in a manner most likely to permit the interviewed persons  
37 the maximum emotional comfort under the circumstances; (h) address  
38 record retention and retrieval; (i) address documentation of  
39 investigative interviews; ~~((and))~~ (j) include self-care for child



1 welfare workers; and (k) include best practices for finding  
2 appropriate placement options for children who experience a placement  
3 disruption, including working with foster parents to provide the  
4 necessary supports to allow such placement.

5 (5) The identification of domestic violence is critical in  
6 ensuring the safety of children in the child welfare system. It is  
7 also critical for child welfare workers to support victims of  
8 domestic violence while victims continue to care for their children,  
9 when possible, as domestic violence perpetrated against someone other  
10 than the child does not constitute negligent treatment or  
11 maltreatment in and of itself as provided in RCW 26.44.020. For these  
12 reasons, ongoing domestic violence training and consultation shall be  
13 provided to child welfare workers, including how to use the  
14 department's practice guide to domestic violence.

15 (6) By January 1, 2021, the department shall:

16 (a) Develop and implement an evidence-informed curriculum for  
17 supervisors providing support to child welfare workers to better  
18 prepare candidates for effective supervisory and leadership roles  
19 within the department;

20 (b) Develop specialized training for child welfare workers that  
21 includes simulation and coaching designed to improve clinical and  
22 analytical skills;

23 ~~((Based on the report required under RCW 43.216.7501(3),~~  
24 ~~develop)) Develop and implement training for child welfare workers  
25 that incorporates trauma-informed care and reflective supervision  
26 principles.~~

27 (7) For purposes of this section, "child welfare worker" means an  
28 employee of the department whose job includes supporting or providing  
29 child welfare services as defined in RCW 74.13.020 or child  
30 protective services as defined in RCW 26.44.020.

31 NEW SECTION. Sec. 4. A new section is added to chapter 74.15  
32 RCW to read as follows:

33 (1) The department shall design and implement a process for  
34 identifying individuals applying for foster family home licensure  
35 that are willing and able to accept placement of children who are at  
36 risk for placement instability, medically fragile children, and  
37 children with developmental disabilities.

38 (2) The department shall prioritize licensure for individuals  
39 identified in subsection (1) of this section.

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

3        (1) Subject to the amounts appropriated for this specific  
4 purpose, the department shall dedicate employees to recruiting and  
5 retaining foster family homes that are willing and able to be a  
6 placement resource for children who are at risk for placement  
7 instability.

8        (2) By November 1, 2024, and in compliance with RCW 43.01.036,  
9 the department shall provide a report to the relevant committees of  
10 the legislature and the governor detailing:

11        (a) The efforts made to recruit and retain foster family homes  
12 under subsection (1) of this section;

13        (b) The change in the number of foster family homes willing and  
14 able to accept placement of children who are at risk for placement  
15 instability; and

16        (c) Recommendations for future efforts to successfully recruit  
17 and retain foster family homes willing and able to accept placement  
18 of children who are at risk for placement instability.

19        (3) This section expires December 31, 2025.

20        NEW SECTION.    **Sec. 6.**    (1) The department of children, youth, and  
21 families shall develop a plan for the phased-in implementation of an  
22 array of supports and services to be provided to licensed foster  
23 parents and licensed kinship care providers accepting placement of  
24 children and youth with moderate to high needs for services and  
25 supports. The array of services included in the plan required under  
26 this section may include, but is not limited to:

27        (a) Services provided through the department of social and health  
28 services developmental disability administration, and the health care  
29 authority;

30        (b) Case aides or other in-home providers;

31        (c) Behavioral supports;

32        (d) Respite services;

33        (e) Crisis support services; or

34        (f) Other identified service and support needs.

35        (2) The plan required under this section shall:

36        (a) Recommend adequate rates for placement resources; and

37        (b) Explore whether the department of children, youth, and  
38 families should develop a program through which an individual may

1 become an independent case aide provider. This program would be  
2 administered as a contracted service.

3 (3) By September 30, 2022, and in compliance with RCW 43.01.036,  
4 the department of children, youth, and families shall provide a  
5 report to the governor and the appropriate committees of the  
6 legislature regarding the development of a plan as required under  
7 this section.

8 (4) This section expires June 30, 2023.

9 NEW SECTION. **Sec. 7.** (1) Sections 1 and 2 of this act expire  
10 when the department of children, youth, and families has completed an  
11 analysis of the needs of foster youth and implemented a comprehensive  
12 rate structure for entities providing care for foster youth that  
13 creates a continuum of care from basic foster care rates to behavior  
14 rehabilitation services.

15 (2) If the analysis described in subsection (1) of this section  
16 is completed, the department of children, youth, and families shall  
17 provide, in compliance with RCW 43.01.036, a report to the governor  
18 and the appropriate committees of the legislature that describes the  
19 comprehensive rate structure recommended by that analysis.

20 NEW SECTION. **Sec. 8.** The department of children, youth, and  
21 families must provide notice of the expiration date of sections 1 and  
22 2 of this act to the affected parties, the chief clerk of the house  
23 of representatives, the secretary of the senate, the office of the  
24 code reviser, and others as deemed appropriate by the department of  
25 children, youth, and families.

--- END ---