
SECOND SUBSTITUTE HOUSE BILL 2038

State of Washington **67th Legislature** **2022 Regular Session**

By House Appropriations (originally sponsored by Representatives
Caldier and Eslick)

READ FIRST TIME 02/07/22.

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 with high levels of service and support needs
12 and who is at risk of placement disruption. The purpose of the
13 exceptional cost payments and other nonmonetary supports under this
14 section is to:

15 (i) Safely stabilize the child;

16 (ii) Meet the child's educational, behavioral health, or other
17 support needs; and

18 (iii) Assist in achieving a permanent plan or less intensive
19 placement arrangement.

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

4 (i) A history of placement instability due to a high level of
5 service and support needs;

6 (ii) Moderate to high behavioral health service needs;

7 (iii) Disabilities or chronic health conditions that require a
8 higher level of care; or

9 (iv) A need for intensive services.

10 (2)(a) The initial exceptional cost payment provided under
11 subsection (1) of this section must be made upon placement of the
12 child and must not be below 35 percent of the payment that would
13 otherwise be provided to a behavioral rehabilitation services
14 contractor that provides therapeutic foster care for the initial 30
15 days.

16 (b) Within the first 30 days, an ongoing foster care payment rate
17 should be developed, and this foster care payment rate must be
18 sufficient to cover transportation to and from medical appointments
19 and other costs required to provide care for the child. The amount
20 developed under this subsection may exceed the level four foster care
21 payment rate.

22 (c) The department shall provide the amount developed in (b) of
23 this subsection to the licensed foster parent for six months or until
24 the child is no longer in the care of the foster parent.

25 (d) After the licensed foster parent has cared for the child for
26 six months, the department shall determine whether:

27 (i) The child's behavioral health has stabilized;

28 (ii) The placement is meeting the child's educational, behavioral
29 health, and other support needs; and

30 (iii) The exceptional cost payments are still necessary to
31 support continued stability and assist in a permanent plan or less
32 intensive placement arrangement.

33 (e) If the department determines that the exceptional cost
34 payments are still necessary based on the criteria included under (d)
35 of this subsection, the department shall negotiate an appropriate
36 payment with the foster parent who is caring for the child meeting
37 the description provided under subsection (1) of this section. This
38 negotiated foster care payment should be sufficient to cover
39 transportation to and from medical appointments and other costs
40 required to provide care for the child.

1 (3) The department shall provide information to foster parents
2 who are eligible for support under this section about what the
3 exceptional cost payment and other nonmonetary support includes and
4 can be used for.

5 (4) In order to receive exceptional cost payments under this
6 section, a foster parent must have completed at least 10 hours of
7 training within the last year that is related to the needs of the
8 children that they are serving. The training required under this
9 subsection does not count toward the training required for foster
10 care licensure.

11 (5) Exceptional cost payments may not be provided to a foster
12 parent who provides placement for the child only at night while the
13 department provides supervision for the child during the day.

14 (6) The requirements of this section do not apply to the payments
15 provided to foster parents who care for medically fragile children.

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

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

22 (2) Within available resources, the department shall recruit an
23 adequate number of prospective adoptive and foster homes, both
24 regular and specialized, i.e. homes for children of ethnic minority,
25 including Indian homes for Indian children, sibling groups, children
26 with disabilities or behavioral health conditions, teens, pregnant
27 and parenting teens, and the department shall annually report to the
28 governor and the legislature concerning the department's success in:
29 (a) Meeting the need for adoptive and foster home placements; (b)
30 reducing the foster parent turnover rate; (c) completing home studies
31 for legally free children; and (d) implementing and operating the
32 passport program required by RCW 74.13.285. The report shall include
33 a section entitled "Foster Home Turn-Over, Causes and
34 Recommendations."

35 (3) The department shall investigate complaints of any recent act
36 or failure to act on the part of a parent or caretaker that results
37 in death, serious physical or emotional harm, or sexual abuse or
38 exploitation, or that presents an imminent risk of serious harm, and
39 on the basis of the findings of such investigation, offer child

1 welfare services in relation to the problem to such parents, legal
2 custodians, or persons serving in loco parentis, and/or bring the
3 situation to the attention of an appropriate court, or another
4 community agency. An investigation is not required of nonaccidental
5 injuries which are clearly not the result of a lack of care or
6 supervision by the child's parents, legal custodians, or persons
7 serving in loco parentis. If the investigation reveals that a crime
8 against a child may have been committed, the department shall notify
9 the appropriate law enforcement agency.

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

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

15 (6) The department shall monitor placements of children in out-
16 of-home care and in-home dependencies to assure the safety, well-
17 being, and quality of care being provided is within the scope of the
18 intent of the legislature as defined in RCW 74.13.010 and 74.15.010.
19 Under this section children in out-of-home care and in-home
20 dependencies and their caregivers shall receive a private and
21 individual face-to-face visit each month. The department shall
22 randomly select no less than (~~ten~~) 10 percent of the caregivers
23 currently providing care to receive one unannounced face-to-face
24 visit in the caregiver's home per year. No caregiver will receive an
25 unannounced visit through the random selection process for two
26 consecutive years. If the caseworker makes a good faith effort to
27 conduct the unannounced visit to a caregiver and is unable to do so,
28 that month's visit to that caregiver need not be unannounced. The
29 department is encouraged to group monthly visits to caregivers by
30 geographic area so that in the event an unannounced visit cannot be
31 completed, the caseworker may complete other required monthly visits.
32 The department shall use a method of random selection that does not
33 cause a fiscal impact to the department.

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

36 (7) The department shall have authority to accept custody of
37 children from parents and to accept custody of children from juvenile
38 courts, where authorized to do so under law, to provide child welfare
39 services including placement for adoption, to provide for the routine
40 and necessary medical, dental, and mental health care, or necessary

1 emergency care of the children, and to provide for the physical care
2 of such children and make payment of maintenance costs if needed,
3 including those required under section 1 of this act. Except where
4 required by Public Law 95-608 (25 U.S.C. Sec. 1915), no private
5 adoption agency which receives children for adoption from the
6 department shall discriminate on the basis of race, creed, or color
7 when considering applications in their placement for adoption.

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

11 (9) The department shall have authority to purchase care for
12 children.

13 (10) The department shall establish a children's services
14 advisory committee which shall assist the secretary in the
15 development of a partnership plan for utilizing resources of the
16 public and private sectors, and advise on all matters pertaining to
17 child welfare, licensing of child care agencies, adoption, and
18 services related thereto. At least one member shall represent the
19 adoption community.

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

22 (i) Enrolled in a secondary education program or a secondary
23 education equivalency program;

24 (ii) Enrolled and participating in a postsecondary academic or
25 postsecondary vocational education program;

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

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

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

33 (b) To be eligible for extended foster care services, the
34 nonminor dependent must have been dependent at the time that he or
35 she reached age (~~eighteen~~) 18 years. If the dependency case of the
36 nonminor dependent was dismissed pursuant to RCW 13.34.267, he or she
37 may receive extended foster care services pursuant to a voluntary
38 placement agreement under RCW 74.13.336 or pursuant to an order of
39 dependency issued by the court under RCW 13.34.268. A nonminor
40 dependent whose dependency case was dismissed by the court may

1 request extended foster care services before reaching age (~~(twenty-~~
2 ~~one))~~ 21 years. Eligible nonminor dependents may unenroll and
3 reenroll in extended foster care through a voluntary placement
4 agreement an unlimited number of times between ages (~~(eighteen))~~ 18
5 and (~~(twenty-one))~~ 21.

6 (c) The department shall develop and implement rules regarding
7 youth eligibility requirements.

8 (d) The department shall make efforts to ensure that extended
9 foster care services maximize medicaid reimbursements. This must
10 include the department ensuring that health and mental health
11 extended foster care providers participate in medicaid, unless the
12 condition of the extended foster care youth requires specialty care
13 that is not available among participating medicaid providers or there
14 are no participating medicaid providers in the area. The department
15 shall coordinate other services to maximize federal resources and the
16 most cost-efficient delivery of services to extended foster care
17 youth.

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

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

29 (13) The department shall refer cases to the division of child
30 support whenever state or federal funds are expended for the care and
31 maintenance of a child, including a child with a developmental
32 disability who is placed as a result of an action under chapter 13.34
33 RCW, unless the department finds that there is good cause not to
34 pursue collection of child support against the parent or parents of
35 the child. Cases involving individuals age (~~(eighteen))~~ 18 through
36 (~~(twenty))~~ 20 shall not be referred to the division of child support
37 unless required by federal law.

38 (14) The department shall have authority within funds
39 appropriated for foster care services to purchase care for Indian
40 children who are in the custody of a federally recognized Indian

1 tribe or tribally licensed child-placing agency pursuant to parental
2 consent, tribal court order, or state juvenile court order. The
3 purchase of such care is exempt from the requirements of chapter
4 74.13B RCW and may be purchased from the federally recognized Indian
5 tribe or tribally licensed child-placing agency, and shall be subject
6 to the same eligibility standards and rates of support applicable to
7 other children for whom the department purchases care.

8 Notwithstanding any other provision of RCW 13.32A.170 through
9 13.32A.200, 43.185C.295, 74.13.035, and 74.13.036, or of this section
10 all services to be provided by the department under subsections (4),
11 (7), and (8) of this section, subject to the limitations of these
12 subsections, may be provided by any program offering such services
13 funded pursuant to Titles II and III of the federal juvenile justice
14 and delinquency prevention act of 1974.

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

19 (16) The department shall have authority to provide independent
20 living services to youths, including individuals who have attained
21 ((eighteen)) 18 years of age, and have not attained ((~~twenty-three~~))
22 23 years of age, who are or have been in the department's care and
23 custody, or who are or were nonminor dependents.

24 (17) The department shall consult at least quarterly with foster
25 parents, including members of the foster parent association of
26 Washington state, for the purpose of receiving information and
27 comment regarding how the department is performing the duties and
28 meeting the obligations specified in this section and RCW 74.13.250
29 regarding the recruitment of foster homes, reducing foster parent
30 turnover rates, providing effective training for foster parents, and
31 administering a coordinated and comprehensive plan that strengthens
32 services for the protection of children. Consultation shall occur at
33 the regional and statewide levels.

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

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

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

3 (iii) Parent-child visits;

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

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

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

11 (19)(a) The department shall have the authority to purchase legal
12 representation for parents or kinship caregivers, or both, of
13 children who are at risk of being dependent, or who are dependent, to
14 establish or modify a parenting plan under RCW 13.34.155 or chapter
15 26.09, 26.26A, or 26.26B RCW or secure orders establishing other
16 relevant civil legal relationships authorized by law, when it is
17 necessary for the child's safety, permanence, or well-being. The
18 department's purchase of legal representation for kinship caregivers
19 must be within the department's appropriations. This subsection does
20 not create an entitlement to legal representation purchased by the
21 department and does not create judicial authority to order the
22 department to purchase legal representation for a parent or kinship
23 caregiver. Such determinations are solely within the department's
24 discretion. The term "kinship caregiver" as used in this section
25 means a caregiver who meets the definition of "kin" in RCW
26 74.13.600(1), unless the child is an Indian child as defined in RCW
27 13.38.040 and 25 U.S.C. Sec. 1903. For an Indian child as defined in
28 RCW 13.38.040 and 25 U.S.C. Sec. 1903, the term "kinship caregiver"
29 as used in this section means a caregiver who is an "extended family
30 member" as defined in RCW 13.38.040(8).

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

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

38 (1) Child welfare workers shall meet minimum standards
39 established by the department. Comprehensive training for child

1 welfare workers shall be completed before such child welfare workers
2 are assigned to case-carrying responsibilities as the sole worker
3 assigned to a particular case. Intermittent, part-time, and standby
4 child welfare workers shall be subject to the same minimum standards
5 and training.

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

10 (3) The department, the criminal justice training commission, the
11 Washington association of sheriffs and police chiefs, and the
12 Washington association of prosecuting attorneys shall design and
13 implement statewide training that contains consistent elements for
14 persons engaged in the interviewing of children, including law
15 enforcement, prosecution, and child protective services.

16 (4) The training required by this section shall: (a) Be based on
17 research-based practices and standards; (b) minimize the trauma of
18 all persons who are interviewed during abuse investigations; (c)
19 provide methods of reducing the number of investigative interviews
20 necessary whenever possible; (d) assure, to the extent possible, that
21 investigative interviews are thorough, objective, and complete; (e)
22 recognize needs of special populations, such as persons with
23 developmental disabilities; (f) recognize the nature and consequences
24 of victimization; (g) require investigative interviews to be
25 conducted in a manner most likely to permit the interviewed persons
26 the maximum emotional comfort under the circumstances; (h) address
27 record retention and retrieval; (i) address documentation of
28 investigative interviews; ~~((and))~~ (j) include self-care for child
29 welfare workers; and (k) include best practices for finding
30 appropriate placement options for children who experience a placement
31 disruption, including working with foster parents to provide the
32 necessary supports to allow such placement.

33 (5) The identification of domestic violence is critical in
34 ensuring the safety of children in the child welfare system. It is
35 also critical for child welfare workers to support victims of
36 domestic violence while victims continue to care for their children,
37 when possible, as domestic violence perpetrated against someone other
38 than the child does not constitute negligent treatment or
39 maltreatment in and of itself as provided in RCW 26.44.020. For these
40 reasons, ongoing domestic violence training and consultation shall be

1 provided to child welfare workers, including how to use the
2 department's practice guide to domestic violence.

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

4 (a) Develop and implement an evidence-informed curriculum for
5 supervisors providing support to child welfare workers to better
6 prepare candidates for effective supervisory and leadership roles
7 within the department;

8 (b) Develop specialized training for child welfare workers that
9 includes simulation and coaching designed to improve clinical and
10 analytical skills;

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

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

19 NEW SECTION. **Sec. 4.** A new section is added to chapter 74.15
20 RCW to read as follows:

21 (1) The department shall design and implement a process for
22 identifying individuals applying for foster family home licensure
23 that are willing and able to accept placement of children who are at
24 risk for placement instability, medically fragile children, and
25 children with developmental disabilities.

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

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

30 (1) Subject to the amounts appropriated for this specific
31 purpose, the department shall dedicate employees to recruiting and
32 retaining foster family homes that are willing and able to be a
33 placement resource for children who are at risk for placement
34 instability.

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

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

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

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

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

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

17 (a) Services provided through the department of social and health
18 services developmental disability administration, and the health care
19 authority;

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

21 (c) Behavioral supports;

22 (d) Respite services;

23 (e) Crisis support services; or

24 (f) Other identified service and support needs.

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

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

27 (b) Explore whether the department of children, youth, and
28 families should develop a program through which an individual may
29 become an independent case aide provider. This program would be
30 administered as a contracted service.

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

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

37 NEW SECTION. **Sec. 7.** (1) Sections 1 and 2 of this act expire
38 when the department of children, youth, and families has completed an

1 analysis of the needs of foster youth and implemented a comprehensive
2 rate structure for entities providing care for foster youth that
3 creates a continuum of care from basic foster care rates to behavior
4 rehabilitation services.

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

10 NEW SECTION. **Sec. 8.** The department of children, youth, and
11 families must provide notice of the expiration date of sections 1 and
12 2 of this act to the affected parties, the chief clerk of the house
13 of representatives, the secretary of the senate, the office of the
14 code reviser, and others as deemed appropriate by the department of
15 children, youth, and families.

16 NEW SECTION. **Sec. 9.** If specific funding for the purposes of
17 this act, referencing this act by bill or chapter number, is not
18 provided by June 30, 2022, in the omnibus appropriations act, this
19 act is null and void.

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