
SECOND SUBSTITUTE HOUSE BILL 1278

State of Washington

68th Legislature

2023 Regular Session

By House Appropriations (originally sponsored by Representatives Ortiz-Self, Senn, Callan, Simmons, Davis, Reeves, Reed, Fey, Cortes, and Ormsby; by request of Department of Children, Youth, and Families)

READ FIRST TIME 02/24/23.

1 AN ACT Relating to supporting guardianships and voluntary
2 placement with nonrelative kin; amending RCW 13.36.090, 74.13.062,
3 and 74.13.031; and creating a new section.

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

5 **Sec. 1.** RCW 13.36.090 and 2010 c 272 s 9 are each amended to
6 read as follows:

7 (1) (~~(A relative guardian who is a licensed foster parent)~~) Any
8 guardian who is a foster parent licensed pursuant to RCW 74.15.030 at
9 the time a guardianship is established under this chapter and who has
10 been the child's foster parent for a minimum of six consecutive
11 months preceding entry of the guardianship order is eligible for a
12 (~~relative~~) guardianship subsidy on behalf of the child. The
13 department may establish rules setting eligibility, application, and
14 program standards consistent with applicable federal guidelines for
15 expenditure of state and federal funds.

16 (2) (~~(Within amounts appropriated for this specific purpose, a~~
17 ~~guardian who is a licensed foster parent at the time a guardianship~~
18 ~~is established under this chapter and who has been the child's foster~~
19 ~~parent for a minimum of six consecutive months preceding entry of the~~
20 ~~guardianship order is eligible for a guardianship subsidy on behalf~~
21 ~~of the child.)) A child is eligible for guardianship subsidies when:~~

1 (a) The child has been placed for at least six consecutive months
2 with a guardian who has been licensed for at least six consecutive
3 months; or

4 (b) The child is placed with a guardian who is already receiving
5 a guardianship assistance subsidy for the benefit of the child's
6 sibling.

7 (3) A child need not be eligible for federal foster care
8 reimbursement in order to qualify for state-funded guardianship
9 assistance payments.

10 (4) Nothing in this section shall be construed to create an
11 entitlement to guardianship assistance subsidies.

12 **Sec. 2.** RCW 74.13.062 and 2022 c 127 s 4 are each amended to
13 read as follows:

14 (1) The department shall adopt rules consistent with federal
15 regulations for the receipt and expenditure of state and federal
16 funds and implement a subsidy program for eligible ~~((relatives))~~
17 guardians appointed by the court ~~((as a guardian))~~ under RCW
18 13.36.050 ~~((or as a guardian))~~, guardians of a minor appointed under
19 RCW 11.130.215, or guardians of an Indian child who receive
20 guardianship subsidies as provided in RCW 74.13.031.

21 (2) For the purpose of licensing a relative seeking to be
22 appointed as a guardian and eligible for a guardianship subsidy under
23 this section, the department shall, on a case-by-case basis, and when
24 determined to be in the best interests of the child:

25 (a) Waive nonsafety licensing standards; and

26 (b) Apply the list of disqualifying crimes in the adoption and
27 safe families act, unless doing so would compromise the child's
28 safety, or would adversely affect the state's ability to continue to
29 obtain federal funding for child welfare related functions.

30 (3) ~~((Relative guardianship))~~ Guardianship subsidy agreements
31 shall be designed to promote long-term permanency for the child, and
32 may include provisions for periodic review of the subsidy amount and
33 the needs of the child.

34 **Sec. 3.** RCW 74.13.031 and 2020 c 274 s 61 are each amended to
35 read as follows:

36 (1) The department shall develop, administer, supervise, and
37 monitor a coordinated and comprehensive plan that establishes, aids,

1 and strengthens services for the protection and care of runaway,
2 dependent, or neglected children.

3 (2) Within available resources, the department shall recruit an
4 adequate number of prospective adoptive and foster homes, both
5 regular and specialized, i.e. homes for children of ethnic minority,
6 including Indian homes for Indian children, sibling groups, children
7 with disabilities or behavioral health conditions, teens, pregnant
8 and parenting teens, and the department shall annually (~~report~~)
9 provide data and information to the governor and the legislature
10 concerning the department's success in: (a) (~~Meeting the need for~~
11 ~~adoptive and foster home placements;~~ (b) ~~reducing the foster parent~~
12 ~~turnover rate;~~ (c) ~~completing home studies for legally free children;~~
13 ~~and (d) implementing and operating the passport program required by~~
14 ~~RCW 74.13.285. The report shall include a section entitled "Foster~~
15 ~~Home Turn-Over, Causes and Recommendations."~~) Placing children with
16 relatives; (b) providing supports to kinship caregivers including
17 guardianship assistance payments; (c) supporting relatives to pass
18 home studies and become licensed caregivers; and (d) meeting the need
19 for nonrelative family foster homes when children cannot be placed
20 with relatives.

21 (3) The department shall investigate complaints of any recent act
22 or failure to act on the part of a parent or caretaker that results
23 in death, serious physical or emotional harm, or sexual abuse or
24 exploitation, or that presents an imminent risk of serious harm, and
25 on the basis of the findings of such investigation, offer child
26 welfare services in relation to the problem to such parents, legal
27 custodians, or persons serving in loco parentis, and/or bring the
28 situation to the attention of an appropriate court, or another
29 community agency. An investigation is not required of nonaccidental
30 injuries which are clearly not the result of a lack of care or
31 supervision by the child's parents, legal custodians, or persons
32 serving in loco parentis. If the investigation reveals that a crime
33 against a child may have been committed, the department shall notify
34 the appropriate law enforcement agency.

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

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

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

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

22 (7) The department shall have authority to accept custody of
23 children from parents and to accept custody of children from juvenile
24 courts, where authorized to do so under law, to provide child welfare
25 services including placement for adoption, to provide for the routine
26 and necessary medical, dental, and mental health care, or necessary
27 emergency care of the children, and to provide for the physical care
28 of such children and make payment of maintenance costs if needed.
29 Except where required by Public Law 95-608 (25 U.S.C. Sec. 1915), no
30 private adoption agency which receives children for adoption from the
31 department shall discriminate on the basis of race, creed, or color
32 when considering applications in their placement for adoption.

33 (8) The department may accept custody of children from parents
34 through a voluntary placement agreement to provide child welfare
35 services. The department may place children with a relative, a
36 suitable person, or a licensed foster home under a voluntary
37 placement agreement. In seeking a placement for a voluntary placement
38 agreement, the department should consider the preferences of the
39 parents and attempt to place with relatives or suitable persons over
40 licensed foster care.

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

4 ~~((9))~~ (10) The department shall have authority to purchase care
5 for children.

6 ~~((10))~~ (11) The department shall establish a children's
7 services advisory committee which shall assist the secretary in the
8 development of a partnership plan for utilizing resources of the
9 public and private sectors, and advise on all matters pertaining to
10 child welfare, licensing of child care agencies, adoption, and
11 services related thereto. At least one member shall represent the
12 adoption community.

13 ~~((11))~~ (12) (a) The department shall provide continued extended
14 foster care services to nonminor dependents who are:

15 (i) Enrolled in a secondary education program or a secondary
16 education equivalency program;

17 (ii) Enrolled and participating in a postsecondary academic or
18 postsecondary vocational education program;

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

21 (iv) Engaged in employment for eighty hours or more per month; or

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

25 (b) To be eligible for extended foster care services, the
26 nonminor dependent must have been dependent at the time that he or
27 she reached age eighteen years. If the dependency case of the
28 nonminor dependent was dismissed pursuant to RCW 13.34.267, he or she
29 may receive extended foster care services pursuant to a voluntary
30 placement agreement under RCW 74.13.336 or pursuant to an order of
31 dependency issued by the court under RCW 13.34.268. A nonminor
32 dependent whose dependency case was dismissed by the court may
33 request extended foster care services before reaching age twenty-one
34 years. Eligible nonminor dependents may unenroll and reenroll in
35 extended foster care through a voluntary placement agreement an
36 unlimited number of times between ages eighteen and twenty-one.

37 (c) The department shall develop and implement rules regarding
38 youth eligibility requirements.

39 (d) The department shall make efforts to ensure that extended
40 foster care services maximize medicaid reimbursements. This must

1 include the department ensuring that health and mental health
2 extended foster care providers participate in medicaid, unless the
3 condition of the extended foster care youth requires specialty care
4 that is not available among participating medicaid providers or there
5 are no participating medicaid providers in the area. The department
6 shall coordinate other services to maximize federal resources and the
7 most cost-efficient delivery of services to extended foster care
8 youth.

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

14 ~~((12))~~ (13) The department shall have authority to provide
15 adoption support benefits ~~((, or relative guardianship subsidies))~~ on
16 behalf of youth ages ~~((eighteen))~~ 18 to ~~((twenty-one))~~ 21 years who
17 achieved permanency through adoption ~~((or a relative guardianship))~~
18 at age ~~((sixteen))~~ 16 or older and who meet the criteria described in
19 subsection ~~((11))~~ (12) of this section.

20 ~~((13))~~ (14) The department shall have the authority to provide
21 guardianship subsidies on behalf of youth ages 18 to 21 years who
22 meet the criteria established in subsection (12) of this section.

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

32 ~~((14))~~ (16) The department shall have authority within funds
33 appropriated for foster care services to purchase care for Indian
34 children who are in the custody of a federally recognized Indian
35 tribe or tribally licensed child-placing agency pursuant to parental
36 consent, tribal court order, or state juvenile court order. The
37 purchase of such care is exempt from the requirements of chapter
38 74.13B RCW and may be purchased from the federally recognized Indian
39 tribe or tribally licensed child-placing agency, and shall be subject

1 to the same eligibility standards and rates of support applicable to
2 other children for whom the department purchases care.

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

10 ~~((15))~~ (17) The department may within funds appropriated for
11 guardianship subsidies to provide subsidies for eligible guardians
12 who are appointed as guardian of an Indian child by the tribal court
13 of a federally recognized tribe located in Washington state, as
14 defined in RCW 13.38.040. The provision of subsidies shall be subject
15 to the same eligibility standards and rates of support applicable to
16 other children for whom the department provides subsidies. To be
17 eligible, the guardian must either be certified by a department-
18 licensed child-placing agency or licensed by a federally recognized
19 tribe located in Washington state that is a Title IV-E agency, as
20 defined in 45 C.F.R. 1355.20.

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

25 ~~((16))~~ (19) The department shall have authority to provide
26 independent living services to youths, including individuals who have
27 attained eighteen years of age, and have not attained twenty-three
28 years of age, who are or have been in the department's care and
29 custody, or who are or were nonminor dependents.

30 ~~((17))~~ (20) The department shall consult at least quarterly
31 with foster parents, including members of the foster parent
32 association of Washington state, for the purpose of receiving
33 information and comment regarding how the department is performing
34 the duties and meeting the obligations specified in this section and
35 RCW 74.13.250 regarding the recruitment of foster homes, reducing
36 foster parent turnover rates, providing effective training for foster
37 parents, and administering a coordinated and comprehensive plan that
38 strengthens services for the protection of children. Consultation
39 shall occur at the regional and statewide levels.

1 (~~(18)~~) (21)(a) The department shall, within current funding
2 levels, place on its public website a document listing the duties and
3 responsibilities the department has to a child subject to a
4 dependency petition including, but not limited to, the following:

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

7 (ii) Sibling visits subject to the restrictions in RCW
8 13.34.136(2)(b)(ii);

9 (iii) Parent-child visits;

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

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

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

17 (~~(19)~~) (22)(a) The department shall have the authority to
18 purchase legal representation for parents or kinship caregivers, or
19 both, of children who are at risk of being dependent, or who are
20 dependent, to establish or modify a parenting plan under RCW
21 13.34.155 or chapter 26.09, 26.26A, or 26.26B RCW or secure orders
22 establishing other relevant civil legal relationships authorized by
23 law, when it is necessary for the child's safety, permanence, or
24 well-being. The department's purchase of legal representation for
25 kinship caregivers must be within the department's appropriations.
26 This subsection does not create an entitlement to legal
27 representation purchased by the department and does not create
28 judicial authority to order the department to purchase legal
29 representation for a parent or kinship caregiver. Such determinations
30 are solely within the department's discretion. The term "kinship
31 caregiver" as used in this section means a caregiver who meets the
32 definition of "kin" in RCW 74.13.600(1), unless the child is an
33 Indian child as defined in RCW 13.38.040 and 25 U.S.C. Sec. 1903. For
34 an Indian child as defined in RCW 13.38.040 and 25 U.S.C. Sec. 1903,
35 the term "kinship caregiver" as used in this section means a
36 caregiver who is an "extended family member" as defined in RCW
37 13.38.040(8).

38 (b) The department is encouraged to work with the office of
39 public defense parent representation program and the office of civil
40 legal aid to develop a cost-effective system for providing effective

1 civil legal representation for parents and kinship caregivers if it
2 exercises its authority under this subsection.

3 NEW SECTION. **Sec. 4.** If specific funding for the purposes of
4 this act, referencing this act by bill or chapter number, is not
5 provided by June 30, 2023, in the omnibus appropriations act, this
6 act is null and void.

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