
HOUSE BILL 1591

State of Washington

68th Legislature

2023 Regular Session

By Representatives Orwall, Taylor, Goodman, Stearns, and Lekanoff

Read first time 01/25/23. Referred to Committee on Human Services, Youth, & Early Learning.

1 AN ACT Relating to open adoption agreements; amending RCW
2 13.34.136, 13.34.200, 26.33.160, 26.33.390, and 74.14B.010;
3 reenacting and amending RCW 13.34.030; adding new sections to chapter
4 13.34 RCW; adding a new section to chapter 74.13 RCW; creating new
5 sections; providing an effective date; and providing an expiration
6 date.

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

8 NEW SECTION. **Sec. 1.** INTENT. (1) Parents of dependent children
9 must have an opportunity to reunify with their children. But, if
10 those children cannot safely reunify, open adoptions:

11 (a) Minimize the child's loss of relationships;

12 (b) Maintain and celebrate the adopted child's connections with
13 all the important people in his or her life; and

14 (c) Allow the child to resolve losses with truth.

15 (2) According to the department of children, youth, and families,
16 children who are adopted, even infants and young children, have an
17 intrinsic sense that there is something different about them. From
18 infancy on, they experience feelings of grief and loss over parents
19 they did or did not know. Because adoption is a lifelong
20 developmental process, adoption-related issues never completely go
21 away.

1 (3) Therefore, in order to ensure their long-term well-being,
2 children who have their legal rights to their parents terminated
3 after receiving child welfare services need access to information
4 about their own life, family history, and background. Because this
5 information and contact is usually important for the well-being of
6 the child, it should not be conditioned on a parent's decision to go
7 to trial in a termination case. Further, once a court orders a plan
8 for an open adoption, it is in the best interests of the child that
9 the court-ordered agreement be followed unless modified by court
10 order.

11 **Sec. 2.** RCW 13.34.030 and 2021 c 304 s 1 and 2021 c 67 s 2 are
12 each reenacted and amended to read as follows:

13 The definitions in this section apply throughout this chapter
14 unless the context clearly requires otherwise.

15 (1) "Abandoned" means when the child's parent, guardian, or other
16 custodian has expressed, either by statement or conduct, an intent to
17 forego, for an extended period, parental rights or responsibilities
18 despite an ability to exercise such rights and responsibilities. If
19 the court finds that the petitioner has exercised due diligence in
20 attempting to locate the parent, no contact between the child and the
21 child's parent, guardian, or other custodian for a period of three
22 months creates a rebuttable presumption of abandonment, even if there
23 is no expressed intent to abandon.

24 (2) "Child," "juvenile," and "youth" mean:

25 (a) Any individual under the age of eighteen years; or

26 (b) Any individual age eighteen to twenty-one years who is
27 eligible to receive and who elects to receive the extended foster
28 care services authorized under RCW 74.13.031. A youth who remains
29 dependent and who receives extended foster care services under RCW
30 74.13.031 shall not be considered a "child" under any other statute
31 or for any other purpose.

32 (3) "Current placement episode" means the period of time that
33 begins with the most recent date that the child was removed from the
34 home of the parent, guardian, or legal custodian for purposes of
35 placement in out-of-home care and continues until: (a) The child
36 returns home; (b) an adoption decree, a permanent custody order, or
37 guardianship order is entered; or (c) the dependency is dismissed,
38 whichever occurs first.

1 (4) "Department" means the department of children, youth, and
2 families.

3 (5) "Dependency guardian" means the person, nonprofit
4 corporation, or Indian tribe appointed by the court pursuant to this
5 chapter for the limited purpose of assisting the court in the
6 supervision of the dependency.

7 (6) "Dependent child" means any child who:

8 (a) Has been abandoned;

9 (b) Is abused or neglected as defined in chapter 26.44 RCW by a
10 person legally responsible for the care of the child;

11 (c) Has no parent, guardian, or custodian capable of adequately
12 caring for the child, such that the child is in circumstances which
13 constitute a danger of substantial damage to the child's
14 psychological or physical development; or

15 (d) Is receiving extended foster care services, as authorized by
16 RCW 74.13.031.

17 (7) "Developmental disability" means a disability attributable to
18 intellectual disability, cerebral palsy, epilepsy, autism, or another
19 neurological or other condition of an individual found by the
20 secretary of the department of social and health services to be
21 closely related to an intellectual disability or to require treatment
22 similar to that required for individuals with intellectual
23 disabilities, which disability originates before the individual
24 attains age eighteen, which has continued or can be expected to
25 continue indefinitely, and which constitutes a substantial limitation
26 to the individual.

27 (8) "Educational liaison" means a person who has been appointed
28 by the court to fulfill responsibilities outlined in RCW 13.34.046.

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

35 (10) "Extended foster care services" means residential and other
36 support services the department is authorized to provide under RCW
37 74.13.031. These services may include placement in licensed,
38 relative, or otherwise approved care, or supervised independent
39 living settings; assistance in meeting basic needs; independent
40 living services; medical assistance; and counseling or treatment.

1 (11) "Guardian" means the person or agency that: (a) Has been
2 appointed as the guardian of a child in a legal proceeding, including
3 a guardian appointed pursuant to chapter 13.36 RCW; and (b) has the
4 legal right to custody of the child pursuant to such appointment. The
5 term "guardian" does not include a "dependency guardian" appointed
6 pursuant to a proceeding under this chapter.

7 (12) "Guardian ad litem" means a person, appointed by the court
8 to represent the best interests of a child in a proceeding under this
9 chapter, or in any matter which may be consolidated with a proceeding
10 under this chapter. A "court-appointed special advocate" appointed by
11 the court to be the guardian ad litem for the child, or to perform
12 substantially the same duties and functions as a guardian ad litem,
13 shall be deemed to be guardian ad litem for all purposes and uses of
14 this chapter.

15 (13) "Guardian ad litem program" means a court-authorized
16 volunteer program, which is or may be established by the superior
17 court of the county in which such proceeding is filed, to manage all
18 aspects of volunteer guardian ad litem representation for children
19 alleged or found to be dependent. Such management shall include but
20 is not limited to: Recruitment, screening, training, supervision,
21 assignment, and discharge of volunteers.

22 (14) "Guardianship" means a guardianship pursuant to chapter
23 13.36 RCW or a limited guardianship of a minor pursuant to RCW
24 11.130.215 or equivalent laws of another state or a federally
25 recognized Indian tribe.

26 (15) "Housing assistance" means appropriate referrals by the
27 department or other agencies to federal, state, local, or private
28 agencies or organizations, assistance with forms, applications, or
29 financial subsidies or other monetary assistance for housing. For
30 purposes of this chapter, "housing assistance" is not a remedial
31 service or family reunification service as described in RCW
32 13.34.025(2).

33 (16) "Indigent" means a person who, at any stage of a court
34 proceeding, is:

35 (a) Receiving one of the following types of public assistance:
36 Temporary assistance for needy families, aged, blind, or disabled
37 assistance benefits, medical care services under RCW 74.09.035,
38 pregnant women assistance benefits, poverty-related veterans'
39 benefits, food stamps or food stamp benefits transferred

1 electronically, refugee resettlement benefits, medicaid, or
2 supplemental security income; or

3 (b) Involuntarily committed to a public mental health facility;
4 or

5 (c) Receiving an annual income, after taxes, of one hundred
6 twenty-five percent or less of the federally established poverty
7 level; or

8 (d) Unable to pay the anticipated cost of counsel for the matter
9 before the court because his or her available funds are insufficient
10 to pay any amount for the retention of counsel.

11 (17) "Nonminor dependent" means any individual age eighteen to
12 twenty-one years who is participating in extended foster care
13 services authorized under RCW 74.13.031.

14 (18) "Open adoption agreement" means a written agreement between
15 a birth parent, prospective adoptive or adoptive parent, and a child
16 or children, and in cases governed by chapter 13.38 RCW, the child's
17 tribe, that establishes enforceable conditions regarding the amount
18 of visitation or contact, if any, following termination of parental
19 rights between the individuals agreeing to such visitation or
20 contact.

21 (19) "Out-of-home care" means placement in a foster family home
22 or group care facility licensed pursuant to chapter 74.15 RCW or
23 placement in a home, other than that of the child's parent, guardian,
24 or legal custodian, not required to be licensed pursuant to chapter
25 74.15 RCW.

26 (~~(19)~~) (20) "Parent" means the biological or adoptive parents
27 of a child, or an individual who has established a parent-child
28 relationship under RCW 26.26A.100, unless the legal rights of that
29 person have been terminated by a judicial proceeding pursuant to this
30 chapter, chapter 26.33 RCW, or the equivalent laws of another state
31 or a federally recognized Indian tribe.

32 (~~(20)~~) (21) "Prevention and family services and programs" means
33 specific mental health prevention and treatment services, substance
34 abuse prevention and treatment services, and in-home parent skill-
35 based programs that qualify for federal funding under the federal
36 family first prevention services act, P.L. 115-123. For purposes of
37 this chapter, prevention and family services and programs are not
38 remedial services or family reunification services as described in
39 RCW 13.34.025(2).

1 (~~(21)~~) (22) "Prevention services" means preservation services,
2 as defined in chapter 74.14C RCW, and other reasonably available
3 services, including housing assistance, capable of preventing the
4 need for out-of-home placement while protecting the child. Prevention
5 services include, but are not limited to, prevention and family
6 services and programs as defined in this section.

7 (~~(22)~~) (23) "Qualified residential treatment program" means a
8 program that meets the requirements provided in RCW 13.34.420,
9 qualifies for funding under the family first prevention services act
10 under 42 U.S.C. Sec. 672(k), and, if located within Washington state,
11 is licensed as a group care facility under chapter 74.15 RCW.

12 (~~(23)~~) (24) "Relative" includes persons related to a child in
13 the following ways:

14 (a) Any blood relative, including those of half-blood, and
15 including first cousins, second cousins, nephews or nieces, and
16 persons of preceding generations as denoted by prefixes of grand,
17 great, or great-great;

18 (b) Stepfather, stepmother, stepbrother, and stepsister;

19 (c) A person who legally adopts a child or the child's parent as
20 well as the natural and other legally adopted children of such
21 persons, and other relatives of the adoptive parents in accordance
22 with state law;

23 (d) Spouses of any persons named in (a), (b), or (c) of this
24 subsection, even after the marriage is terminated;

25 (e) Relatives, as named in (a), (b), (c), or (d) of this
26 subsection, of any half sibling of the child; or

27 (f) Extended family members, as defined by the law or custom of
28 the Indian child's tribe or, in the absence of such law or custom, a
29 person who has reached the age of eighteen and who is the Indian
30 child's grandparent, aunt or uncle, brother or sister, brother-in-law
31 or sister-in-law, niece or nephew, first or second cousin, or
32 stepparent who provides care in the family abode on a twenty-four
33 hour basis to an Indian child as defined in 25 U.S.C. Sec. 1903(4).

34 (~~(24)~~) (25) "Shelter care" means temporary physical care in a
35 facility licensed pursuant to RCW 74.15.030 or in a home not required
36 to be licensed pursuant to RCW 74.15.030.

37 (~~(25)~~) (26) "Sibling" means a child's birth brother, birth
38 sister, adoptive brother, adoptive sister, half-brother, or half-
39 sister, or as defined by the law or custom of the Indian child's
40 tribe for an Indian child as defined in RCW 13.38.040.

1 (~~(26)~~) (27) "Social study" means a written evaluation of
2 matters relevant to the disposition of the case that contains the
3 information required by RCW 13.34.430.

4 (~~(27)~~) (28) "Supervised independent living" includes, but is
5 not limited to, apartment living, room and board arrangements,
6 college or university dormitories, and shared roommate settings.
7 Supervised independent living settings must be approved by the
8 department or the court.

9 (~~(28)~~) (29) "Voluntary placement agreement" means, for the
10 purposes of extended foster care services, a written voluntary
11 agreement between a nonminor dependent who agrees to submit to the
12 care and authority of the department for the purposes of
13 participating in the extended foster care program.

14 **Sec. 3.** RCW 13.34.136 and 2021 c 208 s 2 are each amended to
15 read as follows:

16 (1) Whenever a child is ordered to be removed from the home, a
17 permanency plan shall be developed no later than 60 days from the
18 time the department assumes responsibility for providing services,
19 including placing the child, or at the time of a hearing under RCW
20 13.34.130, whichever occurs first. The permanency planning process
21 continues until a permanency planning goal is achieved or dependency
22 is dismissed. The planning process shall include reasonable efforts
23 to return the child to the parent's home.

24 (2) The department shall submit a written permanency plan to all
25 parties and the court not less than 14 days prior to the scheduled
26 hearing. Responsive reports of parties not in agreement with the
27 department's proposed permanency plan must be provided to the
28 department, all other parties, and the court at least seven days
29 prior to the hearing.

30 The permanency plan shall include:

31 (a) A permanency plan of care that shall identify one of the
32 following outcomes as a primary goal and may identify additional
33 outcomes as alternative goals: Return of the child to the home of the
34 child's parent, guardian, or legal custodian; adoption, including a
35 tribal customary adoption as defined in RCW 13.38.040; guardianship
36 pursuant to chapter 13.36 RCW; guardianship of a minor pursuant to
37 RCW 11.130.215; long-term relative or foster care, if the child is
38 between ages 16 and 18, with a written agreement between the parties
39 and the care provider; successful completion of a responsible living

1 skills program; or independent living, if appropriate and if the
2 child is age 16 or older. Although a permanency plan of care may only
3 identify long-term relative or foster care for children between ages
4 16 and 18, children under 16 may remain placed with relatives or in
5 foster care. The department shall not discharge a child to an
6 independent living situation before the child is 18 years of age
7 unless the child becomes emancipated pursuant to chapter 13.64 RCW;

8 (b) Unless the court has ordered, pursuant to RCW 13.34.130(8),
9 that a termination petition be filed, a specific plan as to where the
10 child will be placed, what steps will be taken to return the child
11 home, what steps the department will take to promote existing
12 appropriate sibling relationships and/or facilitate placement
13 together or contact in accordance with the best interests of each
14 child, and what actions the department will take to maintain parent-
15 child ties. All aspects of the plan shall include the goal of
16 achieving permanence for the child.

17 (i) The department's plan shall specify what services the parents
18 will be offered to enable them to resume custody, what requirements
19 the parents must meet to resume custody, and a time limit for each
20 service plan and parental requirement.

21 (A) If the parent is incarcerated, the plan must address how the
22 parent will participate in the case conference and permanency
23 planning meetings and, where possible, must include treatment that
24 reflects the resources available at the facility where the parent is
25 confined. The plan must provide for visitation opportunities, unless
26 visitation is not in the best interests of the child.

27 (B) If a parent has a developmental disability according to the
28 definition provided in RCW 71A.10.020, and that individual is
29 eligible for services provided by the department of social and health
30 services developmental disabilities administration, the department
31 shall make reasonable efforts to consult with the department of
32 social and health services developmental disabilities administration
33 to create an appropriate plan for services. For individuals who meet
34 the definition of developmental disability provided in RCW 71A.10.020
35 and who are eligible for services through the developmental
36 disabilities administration, the plan for services must be tailored
37 to correct the parental deficiency taking into consideration the
38 parent's disability and the department shall also determine an
39 appropriate method to offer those services based on the parent's
40 disability.

1 (ii)(A) Visitation is the right of the family, including the
2 child and the parent, in cases in which visitation is in the best
3 interest of the child. Early, consistent, and frequent visitation is
4 crucial for maintaining parent-child relationships and making it
5 possible for parents and children to safely reunify. The department
6 shall encourage the maximum parent and child and sibling contact
7 possible, when it is in the best interest of the child, including
8 regular visitation and participation by the parents in the care of
9 the child while the child is in placement.

10 (B) Visitation shall not be limited as a sanction for a parent's
11 failure to comply with court orders or services where the health,
12 safety, or welfare of the child is not at risk as a result of the
13 visitation.

14 (C) Visitation may be limited or denied only if the court
15 determines that such limitation or denial is necessary to protect the
16 child's health, safety, or welfare. Visitation must occur in the
17 least restrictive setting and be unsupervised unless the presence of
18 threats or danger to the child requires the constant presence of an
19 adult to ensure the safety of the child. When a parent or sibling has
20 been identified as a suspect in an active criminal investigation for
21 a violent crime that, if the allegations are true, would impact the
22 safety of the child, the department shall make a concerted effort to
23 consult with the assigned law enforcement officer in the criminal
24 case before recommending any changes in parent/child or child/sibling
25 contact. In the event that the law enforcement officer has
26 information pertaining to the criminal case that may have serious
27 implications for child safety or well-being, the law enforcement
28 officer shall provide this information to the department during the
29 consultation. The department may only use the information provided by
30 law enforcement during the consultation to inform family visitation
31 plans and may not share or otherwise distribute the information to
32 any person or entity. Any information provided to the department by
33 law enforcement during the consultation is considered investigative
34 information and is exempt from public inspection pursuant to RCW
35 42.56.240. The results of the consultation shall be communicated to
36 the court.

37 (D) The court and the department should rely upon community
38 resources, relatives, foster parents, and other appropriate persons
39 to provide transportation and supervision for visitation to the

1 extent that such resources are available, and appropriate, and the
2 child's safety would not be compromised.

3 (E) If the court previously ordered that visitation between a
4 parent and child be supervised or monitored, there shall be a
5 presumption that such supervision or monitoring will no longer be
6 necessary when the permanency plan is entered. To overcome this
7 presumption, a party must provide a report to the court including
8 evidence establishing that removing visit supervision or monitoring
9 would create a risk to the child's safety, and the court shall make a
10 determination as to whether visit supervision or monitoring must
11 continue.

12 (F) The court shall advise the petitioner that the failure to
13 provide court-ordered visitation may result in a finding that the
14 petitioner failed to make reasonable efforts to finalize the
15 permanency plan. The lack of sufficient contracted visitation
16 providers will not excuse the failure to provide court-ordered
17 visitation.

18 (iii)(A) The department, court, or caregiver in the out-of-home
19 placement may not limit visitation or contact between a child and
20 sibling as a sanction for a child's behavior or as an incentive to
21 the child to change his or her behavior.

22 (B) Any exceptions, limitation, or denial of contacts or
23 visitation must be approved by the supervisor of the department
24 caseworker and documented. The child, parent, department, guardian ad
25 litem, or court-appointed special advocate may challenge the denial
26 of visits in court.

27 (iv) A child shall be placed as close to the child's home as
28 possible, preferably in the child's own neighborhood, unless the
29 court finds that placement at a greater distance is necessary to
30 promote the child's or parents' well-being.

31 (v) The plan shall state whether both in-state and, where
32 appropriate, out-of-state placement options have been considered by
33 the department.

34 (vi) Unless it is not in the best interests of the child,
35 whenever practical, the plan should ensure the child remains enrolled
36 in the school the child was attending at the time the child entered
37 foster care.

38 (vii) The department shall provide all reasonable services that
39 are available within the department, or within the community, or
40 those services which the department has existing contracts to

1 purchase. It shall report to the court if it is unable to provide
2 such services; (~~and~~)

3 (c) If the court has ordered, pursuant to RCW 13.34.130(9), that
4 a termination petition be filed, a specific plan as to where the
5 child will be placed, what steps will be taken to achieve permanency
6 for the child, services to be offered or provided to the child, and,
7 if visitation would be in the best interests of the child, a
8 recommendation to the court regarding visitation between parent and
9 child pending a fact-finding hearing on the termination petition. The
10 department shall not be required to develop a plan of services for
11 the parents or provide services to the parents if the court orders a
12 termination petition be filed. However, reasonable efforts to ensure
13 visitation and contact between siblings shall be made unless there is
14 reasonable cause to believe the best interests of the child or
15 siblings would be jeopardized; and

16 (d) If the court identifies adoption as a permanent plan or
17 concurrent plan, the department shall provide training to any
18 prospective adoptive parents caring for the child regarding the
19 benefits of and best practices related to including biological
20 parents and relatives, including siblings, in the lives of children
21 consistent with section 7 of this act.

22 (3) Permanency planning goals should be achieved at the earliest
23 possible date. If the child has been in out-of-home care for 15 of
24 the most recent 22 months, and the court has not made a good cause
25 exception, the court shall require the department to file a petition
26 seeking termination of parental rights in accordance with RCW
27 13.34.145(4)(b)(vi). In cases where parental rights have been
28 terminated, the child is legally free for adoption, and adoption has
29 been identified as the primary permanency planning goal, it shall be
30 a goal to complete the adoption within six months following entry of
31 the termination order.

32 (4) If the court determines that the continuation of reasonable
33 efforts to prevent or eliminate the need to remove the child from his
34 or her home or to safely return the child home should not be part of
35 the permanency plan of care for the child, reasonable efforts shall
36 be made to place the child in a timely manner and to complete
37 whatever steps are necessary to finalize the permanent placement of
38 the child.

39 (5) The identified outcomes and goals of the permanency plan may
40 change over time based upon the circumstances of the particular case.

1 (6) The court shall consider the child's relationships with the
2 child's siblings in accordance with RCW 13.34.130(7). Whenever the
3 permanency plan for a child is adoption, the court shall encourage
4 the prospective adoptive parents, birth parents, foster parents,
5 kinship caregivers, and the department or other agency to seriously
6 consider the long-term benefits to the child adoptee and his or her
7 siblings of providing for and facilitating continuing postadoption
8 contact between the siblings. To the extent that it is feasible, and
9 when it is in the best interests of the child adoptee and his or her
10 siblings, contact between the siblings should be frequent and of a
11 similar nature as that which existed prior to the adoption. If the
12 child adoptee or his or her siblings are represented by an attorney
13 or guardian ad litem in a proceeding under this chapter or in any
14 other child custody proceeding, the court shall inquire of each
15 attorney and guardian ad litem regarding the potential benefits of
16 continuing contact between the siblings and the potential detriments
17 of severing contact. This section does not require the department or
18 other agency to agree to any specific provisions in an open adoption
19 agreement and does not create a new obligation for the department to
20 provide supervision or transportation for visits between siblings
21 separated by adoption from foster care.

22 (7) For purposes related to permanency planning, "guardianship"
23 means a guardianship pursuant to chapter 13.36 RCW or a guardianship
24 of a minor pursuant to RCW 11.130.215, or equivalent laws of another
25 state or a federally recognized Indian tribe.

26 **Sec. 4.** RCW 13.34.200 and 2007 c 413 s 2 are each amended to
27 read as follows:

28 (1) Upon the termination of parental rights pursuant to RCW
29 13.34.180, all rights, powers, privileges, immunities, duties, and
30 obligations, including any rights to custody, control, visitation, or
31 support existing between the child and parent shall be severed and
32 terminated and the parent shall have no standing to appear at any
33 further legal proceedings concerning the child, except (~~as provided~~
34 ~~in RCW 13.34.215: PROVIDED, That any~~);

35 (a) Any support obligation existing prior to the effective date
36 of the order terminating parental rights shall not be severed or
37 terminated;

1 (b) The right to appear in proceedings to enforce or modify an
2 open adoption agreement under sections 5 and 6 of this act shall not
3 be severed or terminated; and

4 (c) As provided in RCW 13.34.215.

5 (2) The rights of one parent may be terminated without affecting
6 the rights of the other parent and the order shall so state.

7 ~~((2))~~ (3) An order terminating the parent and child
8 relationship shall not disentitle a child to any benefit due the
9 child from any third person, agency, state, or the United States, nor
10 shall any action under this chapter be deemed to affect any rights
11 and benefits that an Indian child derives from the child's descent
12 from a member of a federally recognized Indian tribe.

13 ~~((3))~~ (4) An order terminating the parent-child relationship
14 shall include a statement addressing the status of the child's
15 sibling relationships and the nature and extent of sibling placement,
16 contact, or visits.

17 NEW SECTION. Sec. 5. A new section is added to chapter 13.34
18 RCW to read as follows:

19 (1) If an open adoption agreement under this section does not
20 include the name of a party, the open adoption agreement must include
21 the name of an agent used for the purpose of receiving court notices.

22 (2) An open adoption agreement under this section is enforceable
23 from the date the court enters an open adoption agreement.

24 (3) The court must file the open adoption agreement under the
25 cause number in which parental rights are terminated and shall direct
26 the petitioner to file the agreement in any subsequent adoption
27 proceeding involving the child.

28 (4) Failure to comply with the terms of an open adoption
29 agreement does not constitute grounds for setting aside an adoption
30 decree or revocation of a written consent to an adoption after that
31 consent has been approved by the court as provided in this chapter.

32 (5) This section only applies to cases where the child was
33 dependent under this chapter.

34 (6) Parties to an open adoption agreement must have access to the
35 open adoption agreement entered in their case through the court clerk
36 in the county in which the open adoption agreement was entered.

37 (7) The administrative office of the courts shall develop
38 mandatory pattern court forms to allow birth parents who have had

1 their parental rights terminated to access open adoption agreements
2 and for the enforcement or modification of open adoption agreements.

3 NEW SECTION. **Sec. 6.** A new section is added to chapter 13.34
4 RCW to read as follows:

5 (1) Any party to an open adoption may take an action to modify
6 the terms of an open adoption agreement under section 5 of this act
7 based on agreement by the parties to the open adoption agreement or
8 through a filing in juvenile court demonstrating that modification is
9 necessary to:

- 10 (a) Ensure the child's health, safety, or welfare; or
- 11 (b) Better facilitate the contact or visitation included in the
12 open adoption agreement.

13 (2) Any party to an open adoption agreement under section 5 of
14 this act may take an action to enforce the open adoption agreement
15 under this section, to be filed in juvenile court, and a prevailing
16 party may be awarded, as part of the costs of the action, a
17 reasonable amount to be fixed by the court as attorneys' fees.

18 (3) (a) A petitioner under this section seeking to enforce an open
19 adoption agreement shall:

- 20 (i) Set forth facts in an affidavit supporting the petition; and
- 21 (ii) Serve notice of the filing to the party to the open adoption
22 agreement to whom the petitioner is seeking the enforcement action
23 against.

24 (b) If, based on the petition and affidavits, the court finds
25 that it is more likely than not that the requested relief will be
26 granted, the court shall hold a hearing on the petition.

27 (c) If the court does hold a hearing on the petition, the court
28 shall order make-up visits or other contact if a party to the open
29 adoption agreement demonstrates by a preponderance of the evidence
30 that the terms of the plan were not followed, unless the court finds
31 by clear, cogent, and convincing evidence that such make-up
32 visitation or other contact is likely to cause serious physical or
33 emotional damage to the child.

34 (4) The court may find a party to an open adoption agreement in
35 contempt of court under RCW 7.21.030(2) for failing to comply with
36 the terms of an open adoption agreement.

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

1 (1) By October 1, 2023, the department shall contract for the
2 development of training for foster parents regarding the benefits of
3 and best practices related to including biological parents and
4 relatives, including siblings, in the lives of children.

5 (2) Foster parents must complete the training described in
6 subsection (1) of this section as soon as practicable following a
7 court order identifying adoption as a primary goal under RCW
8 13.34.136, and must complete the training before adopting a child who
9 was dependent under chapter 13.34 RCW.

10 **Sec. 8.** RCW 26.33.160 and 1991 c 136 s 2 are each amended to
11 read as follows:

12 (1) Except as otherwise provided in RCW 26.33.170, consent to an
13 adoption shall be required of the following if applicable:

14 (a) The adoptee, if fourteen years of age or older;

15 (b) The parents and any alleged (~~father~~) genetic parent of an
16 adoptee under eighteen years of age;

17 (c) An agency or the department to whom the adoptee has been
18 relinquished pursuant to RCW 26.33.080; and

19 (d) The legal guardian of the adoptee.

20 (2) Except as otherwise provided in subsection (4)(h) of this
21 section, consent to adoption is revocable by the consenting party at
22 any time before the consent is approved by the court. The revocation
23 may be made in either of the following ways:

24 (a) Written revocation may be delivered or mailed to the clerk of
25 the court before approval; or

26 (b) Written revocation may be delivered or mailed to the clerk of
27 the court after approval, but only if it is delivered or mailed
28 within forty-eight hours after a prior notice of revocation that was
29 given within forty-eight hours after the birth of the child. The
30 prior notice of revocation shall be given to the agency or person who
31 sought the consent and may be either oral or written.

32 (3) Except as provided in subsections (2)(b) and (4)(h) of this
33 section and in this subsection, a consent to adoption may not be
34 revoked after it has been approved by the court. Within one year
35 after approval, a consent may be revoked for fraud or duress
36 practiced by the person, department, or agency requesting the
37 consent, or for lack of mental competency on the part of the person
38 giving the consent at the time the consent was given. A written

1 consent to adoption may not be revoked more than one year after it is
2 approved by the court.

3 (4) Except as provided in (h) of this subsection, the written
4 consent to adoption shall be signed under penalty of perjury and
5 shall state that:

6 (a) It is given subject to approval of the court;

7 (b) It has no force or effect until approved by the court;

8 (c) The birth parent is or is not of Native American or Alaska
9 native ancestry;

10 (d) The consent will not be presented to the court until forty-
11 eight hours after it is signed or forty-eight hours after the birth
12 of the child, whichever occurs later;

13 (e) It is revocable by the consenting party at any time before
14 its approval by the court. It may be revoked in either of the
15 following ways:

16 (i) Written revocation may be delivered or mailed to the clerk of
17 the court before approval of the consent by the court; or

18 (ii) Written revocation may be delivered or mailed to the clerk
19 of the court after approval, but only if it is delivered or mailed
20 within forty-eight hours after a prior notice of revocation that was
21 given within forty-eight hours after the birth of the child. The
22 prior notice of revocation shall be given to the agency or person who
23 sought the consent and may be either oral or written;

24 (f) The address of the clerk of court where the consent will be
25 presented is included;

26 (g) Except as provided in (h) of this subsection, after it has
27 been approved by the court, the consent is not revocable except for
28 fraud or duress practiced by the person, department, or agency
29 requesting the consent or for lack of mental competency on the part
30 of the person giving the consent at the time the consent was given. A
31 written consent to adoption may not be revoked more than one year
32 after it is approved by the court;

33 (h) In the case of a consent to an adoption of an Indian child,
34 no consent shall be valid unless the consent is executed in writing
35 more than ten days after the birth of the child and unless the
36 consent is recorded before a court of competent jurisdiction pursuant
37 to 25 U.S.C. Sec. 1913(a). Consent may be withdrawn for any reason at
38 any time prior to the entry of the final decree of adoption. Consent
39 may be withdrawn for fraud or duress within two years of the entry of
40 the final decree of adoption. Revocation of the consent prior to a

1 final decree of adoption, may be delivered or mailed to the clerk of
2 the court or made orally to the court which shall certify such
3 revocation. Revocation of the consent is effective if received by the
4 clerk of the court prior to the entry of the final decree of adoption
5 or made orally to the court at any time prior to the entry of the
6 final decree of adoption. Upon withdrawal of consent, the court shall
7 return the child to the parent unless the child has been taken into
8 custody pursuant to RCW 13.34.050 or 26.44.050, placed in shelter
9 care pursuant to RCW 13.34.060, or placed in foster care pursuant to
10 RCW 13.34.130; and

11 (i) The following statement has been read before signing the
12 consent:

13 I understand that my decision to relinquish the child is an
14 extremely important one, that the legal effect of this
15 relinquishment will be to take from me all legal rights and
16 obligations with respect to the child, and that an order
17 permanently terminating all of my parental rights to the
18 child will be entered. I also understand that there are
19 social services and counseling services available in the
20 community, and that there may be financial assistance
21 available through state and local governmental agencies.

22 (5) A written consent to adoption which meets all the
23 requirements of this chapter but which does not name or otherwise
24 identify the adopting parent is valid if it contains a statement that
25 it is voluntarily executed without disclosure of the name or other
26 identification of the adopting parent.

27 (6) There must be a witness to the consent of the parent or
28 alleged (~~father~~) genetic parent. The witness must be at least
29 eighteen years of age and selected by the parent or alleged
30 (~~father~~) genetic parent. The consent document shall contain a
31 statement identifying by name, address, and relationship the witness
32 selected by the parent or alleged (~~father~~) genetic parent.

33 (7) The department may not consent to the adoption of a child who
34 is committed to the custody of the department following the
35 termination of parental rights under chapter 13.34 RCW unless the
36 prospective adoptive parent has completed the training required under
37 section 7 of this act.

1 **Sec. 9.** RCW 26.33.390 and 1991 c 136 s 5 are each amended to
2 read as follows:

3 (1) All persons adopting a child through the department shall
4 receive written information on the department's adoption-related
5 services including, but not limited to, adoption support, family
6 reconciliation services, archived records, mental health, and
7 developmental disabilities.

8 (2) Any person adopting a child shall receive from the adoption
9 facilitator written information on adoption-related services. This
10 information may be that published by the department or any other
11 social service provider and shall include information about how to
12 find and evaluate appropriate adoption therapists, and may include
13 other resources for adoption-related issues.

14 (3) Any person involved in providing adoption-related services
15 shall respond to requests for written information by providing
16 materials explaining adoption procedures, practices, policies, fees,
17 and services.

18 (4) The department shall identify culturally appropriate mental
19 health and other related services that are designed to support people
20 after being adopted and provide information on obtaining those
21 services to any adopted child who was in the custody of the
22 department.

23 **Sec. 10.** RCW 74.14B.010 and 2019 c 470 s 27 are each amended to
24 read as follows:

25 (1) Child welfare workers shall meet minimum standards
26 established by the department. Comprehensive training for child
27 welfare workers shall be completed before such child welfare workers
28 are assigned to case-carrying responsibilities as the sole worker
29 assigned to a particular case. Intermittent, part-time, and standby
30 child welfare workers shall be subject to the same minimum standards
31 and training.

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

36 (3) The department, the criminal justice training commission, the
37 Washington association of sheriffs and police chiefs, and the
38 Washington association of prosecuting attorneys shall design and
39 implement statewide training that contains consistent elements for

1 persons engaged in the interviewing of children, including law
2 enforcement, prosecution, and child protective services.

3 (4) The training required by this section shall: (a) Be based on
4 research-based practices and standards; (b) minimize the trauma of
5 all persons who are interviewed during abuse investigations; (c)
6 provide methods of reducing the number of investigative interviews
7 necessary whenever possible; (d) assure, to the extent possible, that
8 investigative interviews are thorough, objective, and complete; (e)
9 recognize needs of special populations, such as persons with
10 developmental disabilities; (f) recognize the nature and consequences
11 of victimization; (g) require investigative interviews to be
12 conducted in a manner most likely to permit the interviewed persons
13 the maximum emotional comfort under the circumstances; (h) address
14 record retention and retrieval; (i) address documentation of
15 investigative interviews; and (j) include self-care for child welfare
16 workers.

17 (5) The identification of domestic violence is critical in
18 ensuring the safety of children in the child welfare system. It is
19 also critical for child welfare workers to support victims of
20 domestic violence while victims continue to care for their children,
21 when possible, as domestic violence perpetrated against someone other
22 than the child does not constitute negligent treatment or
23 maltreatment in and of itself as provided in RCW 26.44.020. For these
24 reasons, ongoing domestic violence training and consultation shall be
25 provided to child welfare workers, including how to use the
26 department's practice guide to domestic violence.

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

28 (a) Develop and implement an evidence-informed curriculum for
29 supervisors providing support to child welfare workers to better
30 prepare candidates for effective supervisory and leadership roles
31 within the department;

32 (b) Develop specialized training for child welfare workers that
33 includes simulation and coaching designed to improve clinical and
34 analytical skills;

35 (c) Based on the report required under RCW 43.216.7501(3),
36 develop and implement training for child welfare workers that
37 incorporates trauma-informed care and reflective supervision
38 principles.

39 (7) Child welfare workers must complete the training for foster
40 parents regarding the importance of and best practices related to

1 including biological parents and relatives, including siblings, in
2 the lives of children required under section 7 of this act.

3 (8) For purposes of this section, "child welfare worker" means an
4 employee of the department whose job includes supporting or providing
5 child welfare services as defined in RCW 74.13.020 or child
6 protective services as defined in RCW 26.44.020.

7 NEW SECTION. **Sec. 11.** (1) The administrative office of the
8 courts shall engage with a broad group of stakeholders that includes
9 adopted people, and may request the involvement of existing
10 stakeholder groups including the supreme court of Washington's
11 commission on children in foster care, to discuss the following
12 issues related to open adoption agreements as defined in RCW
13 13.34.030 along with any other issues identified by the stakeholder
14 group:

15 (a) Development of a trauma-informed mediation process that is
16 available throughout the state for birth parents, prospective
17 adoptive parents, adoptive parents, and children to negotiate open
18 adoption agreements and to address challenges in implementing open
19 adoption agreements;

20 (b) The appropriate response to situations where one party does
21 not agree to participate in mediation or the parties fail to reach a
22 mediated open adoption agreement;

23 (c) How to prevent open adoption agreements that contain
24 provisions that nullify some or all of the agreement without judicial
25 review;

26 (d) Methods of ensuring ongoing contact for relatives and the
27 enforceability of any relative or sibling contact included in open
28 adoption agreements; and

29 (e) The role of the child's tribe in enforcement.

30 (2) By December 1, 2023, and in compliance with RCW 43.01.036,
31 the administrative office of the courts must provide a report to the
32 relevant committees of the legislature and the governor describing
33 recommendations for addressing the issues listed in subsection (1) of
34 this section.

35 (3) This section expires June 30, 2024.

1 NEW SECTION. **Sec. 12.** Sections 3, 8, and 10 of this act take
2 effect January 1, 2024.

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