
SUBSTITUTE HOUSE BILL 1591

State of Washington

68th Legislature

2023 Regular Session

By House Human Services, Youth, & Early Learning (originally sponsored by Representatives Orwall, Taylor, Goodman, Stearns, and Lekanoff)

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. Further, once a
5 court orders a plan for an open adoption, it is in the best interests
6 of the child that the court-ordered agreement be followed unless
7 modified by court order.

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

10 The definitions in this section apply throughout this chapter
11 unless the context clearly requires otherwise.

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

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

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

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

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

36 (4) "Department" means the department of children, youth, and
37 families.

38 (5) "Dependency guardian" means the person, nonprofit
39 corporation, or Indian tribe appointed by the court pursuant to this

1 chapter for the limited purpose of assisting the court in the
2 supervision of the dependency.

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

4 (a) Has been abandoned;

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

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

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

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

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

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

31 (10) "Extended foster care services" means residential and other
32 support services the department is authorized to provide under RCW
33 74.13.031. These services may include placement in licensed,
34 relative, or otherwise approved care, or supervised independent
35 living settings; assistance in meeting basic needs; independent
36 living services; medical assistance; and counseling or treatment.

37 (11) "Guardian" means the person or agency that: (a) Has been
38 appointed as the guardian of a child in a legal proceeding, including
39 a guardian appointed pursuant to chapter 13.36 RCW; and (b) has the
40 legal right to custody of the child pursuant to such appointment. The

1 term "guardian" does not include a "dependency guardian" appointed
2 pursuant to a proceeding under this chapter.

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

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

18 (14) "Guardianship" means a guardianship pursuant to chapter
19 13.36 RCW or a limited guardianship of a minor pursuant to RCW
20 11.130.215 or equivalent laws of another state or a federally
21 recognized Indian tribe.

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

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

31 (a) Receiving one of the following types of public assistance:
32 Temporary assistance for needy families, aged, blind, or disabled
33 assistance benefits, medical care services under RCW 74.09.035,
34 pregnant women assistance benefits, poverty-related veterans'
35 benefits, food stamps or food stamp benefits transferred
36 electronically, refugee resettlement benefits, medicaid, or
37 supplemental security income; or

38 (b) Involuntarily committed to a public mental health facility;
39 or

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

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

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

10 (18) "Open adoption agreement" means a written agreement between
11 a birth parent, prospective adoptive or adoptive parent, and a child
12 or children, and in cases governed by chapter 13.38 RCW, the child's
13 tribe, that establishes enforceable conditions regarding the amount
14 of communication with or contact, which may include in-person
15 contact, if any, involving the adoption of a child who was subject to
16 a dependency under this chapter between the individuals agreeing to
17 such visitation or contact.

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

23 ((+19)) (20) "Parent" means the biological or adoptive parents
24 of a child, or an individual who has established a parent-child
25 relationship under RCW 26.26A.100, unless the legal rights of that
26 person have been terminated by a judicial proceeding pursuant to this
27 chapter, chapter 26.33 RCW, or the equivalent laws of another state
28 or a federally recognized Indian tribe.

29 ((+20)) (21) "Prevention and family services and programs" means
30 specific mental health prevention and treatment services, substance
31 abuse prevention and treatment services, and in-home parent skill-
32 based programs that qualify for federal funding under the federal
33 family first prevention services act, P.L. 115-123. For purposes of
34 this chapter, prevention and family services and programs are not
35 remedial services or family reunification services as described in
36 RCW 13.34.025(2).

37 ((+21)) (22) "Prevention services" means preservation services,
38 as defined in chapter 74.14C RCW, and other reasonably available
39 services, including housing assistance, capable of preventing the
40 need for out-of-home placement while protecting the child. Prevention

1 services include, but are not limited to, prevention and family
2 services and programs as defined in this section.

3 ~~((22))~~ (23) "Qualified residential treatment program" means a
4 program that meets the requirements provided in RCW 13.34.420,
5 qualifies for funding under the family first prevention services act
6 under 42 U.S.C. Sec. 672(k), and, if located within Washington state,
7 is licensed as a group care facility under chapter 74.15 RCW.

8 ~~((23))~~ (24) "Relative" includes persons related to a child in
9 the following ways:

10 (a) Any blood relative, including those of half-blood, and
11 including first cousins, second cousins, nephews or nieces, and
12 persons of preceding generations as denoted by prefixes of grand,
13 great, or great-great;

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

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

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

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

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

30 ~~((24))~~ (25) "Shelter care" means temporary physical care in a
31 facility licensed pursuant to RCW 74.15.030 or in a home not required
32 to be licensed pursuant to RCW 74.15.030.

33 ~~((25))~~ (26) "Sibling" means a child's birth brother, birth
34 sister, adoptive brother, adoptive sister, half-brother, or half-
35 sister, or as defined by the law or custom of the Indian child's
36 tribe for an Indian child as defined in RCW 13.38.040.

37 ~~((26))~~ (27) "Social study" means a written evaluation of
38 matters relevant to the disposition of the case that contains the
39 information required by RCW 13.34.430.

1 (~~(27)~~) (28) "Supervised independent living" includes, but is
2 not limited to, apartment living, room and board arrangements,
3 college or university dormitories, and shared roommate settings.
4 Supervised independent living settings must be approved by the
5 department or the court.

6 (~~(28)~~) (29) "Voluntary placement agreement" means, for the
7 purposes of extended foster care services, a written voluntary
8 agreement between a nonminor dependent who agrees to submit to the
9 care and authority of the department for the purposes of
10 participating in the extended foster care program.

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

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

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

27 The permanency plan shall include:

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

1 16 and 18, children under 16 may remain placed with relatives or in
2 foster care. The department shall not discharge a child to an
3 independent living situation before the child is 18 years of age
4 unless the child becomes emancipated pursuant to chapter 13.64 RCW;

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

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

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

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

38 (ii) (A) Visitation is the right of the family, including the
39 child and the parent, in cases in which visitation is in the best
40 interest of the child. Early, consistent, and frequent visitation is

1 crucial for maintaining parent-child relationships and making it
2 possible for parents and children to safely reunify. The department
3 shall encourage the maximum parent and child and sibling contact
4 possible, when it is in the best interest of the child, including
5 regular visitation and participation by the parents in the care of
6 the child while the child is in placement.

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

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

34 (D) The court and the department should rely upon community
35 resources, relatives, foster parents, and other appropriate persons
36 to provide transportation and supervision for visitation to the
37 extent that such resources are available, and appropriate, and the
38 child's safety would not be compromised.

39 (E) If the court previously ordered that visitation between a
40 parent and child be supervised or monitored, there shall be a

1 presumption that such supervision or monitoring will no longer be
2 necessary when the permanency plan is entered. To overcome this
3 presumption, a party must provide a report to the court including
4 evidence establishing that removing visit supervision or monitoring
5 would create a risk to the child's safety, and the court shall make a
6 determination as to whether visit supervision or monitoring must
7 continue.

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

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

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

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

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

30 (vi) Unless it is not in the best interests of the child,
31 whenever practical, the plan should ensure the child remains enrolled
32 in the school the child was attending at the time the child entered
33 foster care.

34 (vii) The department shall provide all reasonable services that
35 are available within the department, or within the community, or
36 those services which the department has existing contracts to
37 purchase. It shall report to the court if it is unable to provide
38 such services; (~~and~~)

39 (c) If the court has ordered, pursuant to RCW 13.34.130(9), that
40 a termination petition be filed, a specific plan as to where the

1 child will be placed, what steps will be taken to achieve permanency
2 for the child, services to be offered or provided to the child, and,
3 if visitation would be in the best interests of the child, a
4 recommendation to the court regarding visitation between parent and
5 child pending a fact-finding hearing on the termination petition. The
6 department shall not be required to develop a plan of services for
7 the parents or provide services to the parents if the court orders a
8 termination petition be filed. However, reasonable efforts to ensure
9 visitation and contact between siblings shall be made unless there is
10 reasonable cause to believe the best interests of the child or
11 siblings would be jeopardized; and

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

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

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

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

37 (6) The court shall consider the child's relationships with the
38 child's siblings in accordance with RCW 13.34.130(7). Whenever the
39 permanency plan for a child is adoption, the court shall encourage
40 the prospective adoptive parents, birth parents, foster parents,

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

18 (7) For purposes related to permanency planning, "guardianship"
19 means a guardianship pursuant to chapter 13.36 RCW or a guardianship
20 of a minor pursuant to RCW 11.130.215, or equivalent laws of another
21 state or a federally recognized Indian tribe.

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

24 (1) Upon the termination of parental rights pursuant to RCW
25 13.34.180, all rights, powers, privileges, immunities, duties, and
26 obligations, including any rights to custody, control, visitation, or
27 support existing between the child and parent shall be severed and
28 terminated and the parent shall have no standing to appear at any
29 further legal proceedings concerning the child, except (~~as provided~~
30 ~~in RCW 13.34.215: PROVIDED, That any~~)).

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

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

37 (c) As provided in RCW 13.34.215.

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

1 ~~((2))~~ (3) An order terminating the parent and child
2 relationship shall not disentitle a child to any benefit due the
3 child from any third person, agency, state, or the United States, nor
4 shall any action under this chapter be deemed to affect any rights
5 and benefits that an Indian child derives from the child's descent
6 from a member of a federally recognized Indian tribe.

7 ~~((3))~~ (4) An order terminating the parent-child relationship
8 shall include a statement addressing the status of the child's
9 sibling relationships and the nature and extent of sibling placement,
10 contact, or visits.

11 NEW SECTION. **Sec. 5.** A new section is added to chapter 13.34
12 RCW to read as follows:

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

16 (2) The court must file the open adoption agreement under the
17 cause number in which parental rights are terminated and shall direct
18 the petitioner to file the agreement in any subsequent adoption
19 proceeding involving the child.

20 (3) Failure to comply with the terms of an open adoption
21 agreement does not constitute grounds for setting aside an adoption
22 decree or revocation of a written consent to an adoption after that
23 consent has been approved by the court as provided in this chapter.

24 (4) Parties to an open adoption agreement must have access to the
25 open adoption agreement entered in their case through the court clerk
26 in the county in which the open adoption agreement was entered.

27 (5) The administrative office of the courts shall develop
28 mandatory pattern court forms to allow birth parents who have had
29 their parental rights terminated to access open adoption agreements
30 and for the enforcement or modification of open adoption agreements.

31 (6) This section only applies to open adoption agreements
32 involving a child who was subject to a dependency under this chapter.

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

35 (1) Any party to an open adoption may take an action to modify
36 the terms of an open adoption agreement under section 5 of this act
37 based on agreement by the parties to the open adoption agreement or
38 through a filing in juvenile court demonstrating that:

1 (a) Modification is necessary to ensure the child's health,
2 safety, or welfare; or

3 (b) Exceptional circumstances have arisen since the agreed order
4 was entered to justify modification of the order.

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

10 (b) If the court does hold a hearing on the petition to enforce
11 the open adoption agreement following a finding under subsection (3)
12 of this section, the court shall order make-up visits or other
13 contact if a party to the open adoption agreement demonstrates by a
14 preponderance of the evidence that the terms of the plan were not
15 followed, unless the court finds by clear, cogent, and convincing
16 evidence that such make-up visitation or other contact is likely to
17 cause serious physical or emotional damage to the child.

18 (3) (a) A petitioner under this section seeking to modify or
19 enforce an open 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 (4) The court may find a party to an open adoption agreement in
28 contempt of court under RCW 7.21.030(2) for failing to comply with
29 the terms of an open adoption agreement.

30 (5) This section only applies to open adoption agreements
31 involving a child who was subject to a dependency under this chapter.

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

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

38 (2) Foster parents must complete the training described in
39 subsection (1) of this section as soon as practicable following a

1 court order identifying adoption as a primary goal under RCW
2 13.34.136, and must complete the training before adopting a child who
3 was dependent under chapter 13.34 RCW.

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

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

- 8 (a) The adoptee, if fourteen years of age or older;
- 9 (b) The parents and any alleged (~~father~~) genetic parent of an
10 adoptee under eighteen years of age;
- 11 (c) An agency or the department to whom the adoptee has been
12 relinquished pursuant to RCW 26.33.080; and
- 13 (d) The legal guardian of the adoptee.

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

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

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

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

- 38 (a) It is given subject to approval of the court;
- 39 (b) It has no force or effect until approved by the court;

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

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

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

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

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

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

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

26 (h) In the case of a consent to an adoption of an Indian child,
27 no consent shall be valid unless the consent is executed in writing
28 more than ten days after the birth of the child and unless the
29 consent is recorded before a court of competent jurisdiction pursuant
30 to 25 U.S.C. Sec. 1913(a). Consent may be withdrawn for any reason at
31 any time prior to the entry of the final decree of adoption. Consent
32 may be withdrawn for fraud or duress within two years of the entry of
33 the final decree of adoption. Revocation of the consent prior to a
34 final decree of adoption, may be delivered or mailed to the clerk of
35 the court or made orally to the court which shall certify such
36 revocation. Revocation of the consent is effective if received by the
37 clerk of the court prior to the entry of the final decree of adoption
38 or made orally to the court at any time prior to the entry of the
39 final decree of adoption. Upon withdrawal of consent, the court shall
40 return the child to the parent unless the child has been taken into

1 custody pursuant to RCW 13.34.050 or 26.44.050, placed in shelter
2 care pursuant to RCW 13.34.060, or placed in foster care pursuant to
3 RCW 13.34.130; and

4 (i) The following statement has been read before signing the
5 consent:

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

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

20 (6) There must be a witness to the consent of the parent or
21 alleged ((father)) genetic parent. The witness must be at least
22 eighteen years of age and selected by the parent or alleged
23 ((father)) genetic parent. The consent document shall contain a
24 statement identifying by name, address, and relationship the witness
25 selected by the parent or alleged ((father)) genetic parent.

26 (7) The department may not consent to the adoption of a child who
27 is committed to the custody of the department following the
28 termination of parental rights under chapter 13.34 RCW unless the
29 prospective adoptive parent has completed the training required under
30 section 7 of this act.

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

33 (1) All persons adopting a child through the department shall
34 receive written information on the department's adoption-related
35 services including, but not limited to, adoption support, family
36 reconciliation services, archived records, mental health, and
37 developmental disabilities.

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

7 (3) Any person involved in providing adoption-related services
8 shall respond to requests for written information by providing
9 materials explaining adoption procedures, practices, policies, fees,
10 and services.

11 (4) The department shall identify the types of culturally
12 appropriate mental health and other related services that are
13 designed to support people after being adopted and provide
14 information on obtaining those services to any adopted child who was
15 in the custody of the department.

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

18 (1) Child welfare workers shall meet minimum standards
19 established by the department. Comprehensive training for child
20 welfare workers shall be completed before such child welfare workers
21 are assigned to case-carrying responsibilities as the sole worker
22 assigned to a particular case. Intermittent, part-time, and standby
23 child welfare workers shall be subject to the same minimum standards
24 and training.

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

29 (3) The department, the criminal justice training commission, the
30 Washington association of sheriffs and police chiefs, and the
31 Washington association of prosecuting attorneys shall design and
32 implement statewide training that contains consistent elements for
33 persons engaged in the interviewing of children, including law
34 enforcement, prosecution, and child protective services.

35 (4) The training required by this section shall: (a) Be based on
36 research-based practices and standards; (b) minimize the trauma of
37 all persons who are interviewed during abuse investigations; (c)
38 provide methods of reducing the number of investigative interviews
39 necessary whenever possible; (d) assure, to the extent possible, that

1 investigative interviews are thorough, objective, and complete; (e)
2 recognize needs of special populations, such as persons with
3 developmental disabilities; (f) recognize the nature and consequences
4 of victimization; (g) require investigative interviews to be
5 conducted in a manner most likely to permit the interviewed persons
6 the maximum emotional comfort under the circumstances; (h) address
7 record retention and retrieval; (i) address documentation of
8 investigative interviews; and (j) include self-care for child welfare
9 workers.

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

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

21 (a) Develop and implement an evidence-informed curriculum for
22 supervisors providing support to child welfare workers to better
23 prepare candidates for effective supervisory and leadership roles
24 within the department;

25 (b) Develop specialized training for child welfare workers that
26 includes simulation and coaching designed to improve clinical and
27 analytical skills;

28 (c) Based on the report required under RCW 43.216.7501(3),
29 develop and implement training for child welfare workers that
30 incorporates trauma-informed care and reflective supervision
31 principles.

32 (7) Child welfare workers must complete the training for foster
33 parents regarding the importance of and best practices related to
34 including biological parents and relatives, including siblings, in
35 the lives of children required under section 7 of this act.

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

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

9 (a) Development of a trauma-informed mediation process that is
10 available throughout the state for birth parents, prospective
11 adoptive parents, adoptive parents, and children to negotiate open
12 adoption agreements and to address challenges in implementing open
13 adoption agreements;

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

17 (c) How to prevent open adoption agreements that contain
18 provisions that nullify some or all of the agreement without judicial
19 review;

20 (d) Methods of ensuring ongoing contact for relatives and the
21 enforceability of any relative or sibling contact included in open
22 adoption agreements;

23 (e) The appropriate time for open adoption agreements to become
24 enforceable and mechanisms for informing the parties to that open
25 adoption agreement that the agreement is enforceable; and

26 (f) The role of the child's tribe in enforcement.

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

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

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

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