
SENATE BILL 5935

State of Washington

62nd Legislature

2011 Regular Session

By Senator Hargrove

Read first time 04/14/11. Referred to Committee on Ways & Means.

1 AN ACT Relating to adoption support payments; amending RCW
2 74.13A.025, 74.13A.050, and 74.13A.060; reenacting and amending RCW
3 74.13A.020; adding a new section to chapter 74.13A RCW; providing an
4 effective date; and declaring an emergency.

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

6 **Sec. 1.** RCW 74.13A.020 and 2009 c 520 s 66 and 2009 c 491 s 9 are
7 each reenacted and amended to read as follows:

8 (1) The secretary shall issue rules and regulations to assist in
9 the administration of the program of adoption support authorized by RCW
10 26.33.320 and 74.13A.005 through 74.13A.080.

11 (2) Disbursements from the appropriations available from the
12 general fund shall be made pursuant to this chapter and such rules and
13 regulations and pursuant to agreements conforming thereto to be made by
14 the secretary with parents for the purpose of supporting the adoption
15 of children in, or likely to be placed in, foster homes or child caring
16 institutions who are found by the secretary to be (~~difficult~~) hard to
17 place in adoption because of physical or other reasons; including, but
18 not limited to, physical or mental handicap, emotional disturbance,
19 ethnic background, language, race, color, age, or sibling grouping.

1 (3) Such agreements shall meet the following criteria:

2 (a) The child whose adoption is to be supported pursuant to such
3 agreement shall be or have been a child hard to place in adoption. For
4 purposes of this chapter, "hard to place" shall not include children on
5 whom the caregiver does not spend in excess of the hours one would
6 normally spend meeting the needs of a typically developing child or a
7 child for whom the caregiver was receiving only the basic foster care
8 maintenance rate at the time the adoption was finalized.

9 (b) Such agreement must relate to a child who was or is residing in
10 a foster home or child-caring institution or a child who, in the
11 judgment of the secretary, is both eligible for, and likely to be
12 placed in, either a foster home or a child-caring institution.

13 (c) Such agreement shall provide that adoption support shall not
14 continue beyond the time that the adopted child reaches eighteen years
15 of age, becomes emancipated, dies, or otherwise ceases to need support.
16 If the secretary finds that continuing dependency of such child after
17 such child reaches eighteen years of age warrants the continuation of
18 support pursuant to RCW 26.33.320 and 74.13A.005 through 74.13A.080 the
19 secretary may do so, subject to all the provisions of RCW 26.33.320 and
20 74.13A.005 through 74.13A.080, including annual review of the amount of
21 such support.

22 (d) Any prospective parent who is to be a party to such agreement
23 shall be a person who has the character, judgment, sense of
24 responsibility, and disposition which make him or her suitable as an
25 adoptive parent of such child.

26 (4) At least six months before an adoption is finalized under
27 chapter 26.33 RCW and RCW ((~~74.13.100~~)) 74.13A.005 through
28 ((~~74.13.145~~)) 74.13A.080, the department must provide to the
29 prospective adoptive parent, in writing, information describing the
30 limits of the adoption support program including the following
31 information:

32 (a) The limits on monthly cash payments to adoptive families;

33 (b) The limits on the availability of children's mental health
34 services and the funds with which to pay for these services;

35 (c) The process for accessing mental health services for children
36 receiving adoption support services;

37 (d) The limits on the one-time cash payments to adoptive families
38 for expenses related to their adopted children; and

1 (e) That payment for residential or group care is not available for
2 adopted children under the adoption support program.

3 **Sec. 2.** RCW 74.13A.025 and 1996 c 130 s 1 are each amended to read
4 as follows:

5 (1) The factors to be considered by the secretary in setting the
6 amount of any payment or payments to be made pursuant to RCW 26.33.320
7 and ~~((74.13.100))~~ 74.13A.005 through ~~((74.13.145))~~ 74.13A.080 and in
8 adjusting standards hereunder shall include: The size of the family
9 including the adoptive child, the usual living expenses of the family,
10 the special needs of any family member including education needs, the
11 family income, the family resources and plan for savings, the medical
12 and hospitalization needs of the family, the family's means of
13 purchasing or otherwise receiving such care, and any other expenses
14 likely to be needed by the child to be adopted.

15 (2) Notwithstanding the provisions of subsection (1) of this
16 section, the department shall not make payments for a child for whom
17 the department was paying his or her caregiver only the basic foster
18 care maintenance rate at the time the adoption was finalized.

19 (3) In setting the amount of any initial payment made pursuant to
20 RCW 26.33.320 and ~~((74.13.100))~~ 74.13A.005 through ~~((74.13.145))~~
21 74.13A.080, the secretary is authorized to establish maximum payment
22 amounts that are reasonable and allow permanency planning goals related
23 to adoption of children under RCW 13.34.145 to be achieved at the
24 earliest possible date.

25 (4) The amounts paid for the support of a child pursuant to RCW
26 26.33.320 and ~~((74.13.100))~~ 74.13A.005 through ~~((74.13.145))~~ 74.13A.080
27 may vary from family to family and from year to year. Due to changes
28 in economic circumstances or the needs of the child such payments may
29 be discontinued and later resumed.

30 (5) Payments under RCW 26.33.320 and ~~((74.13.100))~~ 74.13A.005
31 through ~~((74.13.145))~~ 74.13A.080 may be continued by the secretary
32 subject to review as provided for herein, if such parent or parents
33 having such child in their custody establish their residence in another
34 state or a foreign jurisdiction.

35 (6) In fixing the standards to govern the amount and character of
36 payments to be made for the support of adopted children pursuant to RCW
37 26.33.320 and ~~((74.13.100))~~ 74.13A.005 through ~~((74.13.145))~~ 74.13A.080

1 and before issuing rules and regulations to carry out the provisions of
2 RCW 26.33.320 and (~~(74.13.100)~~) 74.13A.005 through (~~(74.13.145)~~)
3 74.13A.080, the secretary shall consider the comments and
4 recommendations of the committee designated by the secretary to advise
5 him or her with respect to child welfare.

6 NEW SECTION. **Sec. 3.** A new section is added to chapter 74.13A RCW
7 to read as follows:

8 Nothing in this chapter prohibits an adoptive parent from seeking
9 payments or assistance under this chapter after the finalization of the
10 adoption of a child who was in, or likely to be placed in, foster care
11 prior to the adoption, but who, at the time of adoption, was not
12 considered hard to place.

13 **Sec. 4.** RCW 74.13A.050 and 2009 c 520 s 67 are each amended to
14 read as follows:

15 An agreement for adoption support made before January 1, 1985, or
16 pursuant to RCW 26.33.320 and 74.13A.005 through 74.13A.080, although
17 subject to review and adjustment as provided for herein, shall, as to
18 the standard used by the secretary in making such review or reviews and
19 any such adjustment, constitutes a contract within the meaning of
20 section 10, Article I of the United States Constitution and section 23,
21 Article I of the state Constitution. For that reason once such an
22 agreement has been made any review of and adjustment under such
23 agreement shall as to the standards used by the secretary, be made only
24 subject to the provisions of RCW 26.33.320 and 74.13A.005 through
25 74.13A.080 and such rules and regulations relating thereto as they
26 exist on the date of the initial determination in connection with such
27 agreement or such more generous standard or parts of such standard as
28 may hereafter be provided for by law or regulation. Once made such an
29 agreement shall constitute a solemn undertaking by the state of
30 Washington with such adoptive parent or parents. The termination of
31 the effective period of RCW 26.33.320 and 74.13A.005 through 74.13A.080
32 or a decision by the state or federal government to discontinue or
33 reduce general appropriations made available for the purposes to be
34 served by RCW 26.33.320 and 74.13A.005 through 74.13A.080, shall not
35 affect the state's specific continuing obligations to support such

1 adoptions, subject to such annual review and adjustment for all such
2 agreements as have theretofore been entered into by the state.

3 The purpose of this section is to assure any such parent that, upon
4 his or her consenting to assume the burdens of adopting a hard to place
5 child, the state will not in future so act by way of general reduction
6 of appropriations for the program authorized by RCW 26.33.320 and
7 74.13A.005 through 74.13A.080 or ratable reductions, to impair the
8 trust and confidence necessarily reposed by such parent in the state as
9 a condition of such parent taking upon himself or herself the
10 obligations of parenthood of a ((~~difficult~~)) hard to place child.

11 Should the secretary and any such adoptive parent differ as to
12 whether any standard or part of a standard adopted by the secretary
13 after the date of an initial agreement, which standard or part is used
14 by the secretary in making any review and adjustment, is more generous
15 than the standard in effect as of the date of the initial determination
16 with respect to such agreement such adoptive parent may invoke his or
17 her rights, including all rights of appeal under the fair hearing
18 provisions, available to him or her under RCW 74.13A.055.

19 **Sec. 5.** RCW 74.13A.060 and 1990 c 285 s 8 are each amended to read
20 as follows:

21 The secretary may authorize the payment, from the appropriations
22 available from the general fund, of all or part of the nonrecurring
23 adoption expenses incurred by a prospective parent. "Nonrecurring
24 adoption expenses" means those expenses incurred by a prospective
25 parent in connection with the adoption of a ((~~difficult~~)) hard to place
26 child including, but not limited to, attorneys' fees, court costs, and
27 agency fees. Payment shall be made in accordance with rules adopted by
28 the department.

29 This section shall have retroactive application to January 1, 1987.
30 For purposes of retroactive application, the secretary may provide
31 reimbursement to any parent who adopted a ((~~difficult~~)) hard to place
32 child between January 1, 1987, and one year following June 7, 1990,
33 regardless of whether the parent had previously entered into an
34 adoption support agreement with the department.

35 NEW SECTION. **Sec. 6.** This act is necessary for the immediate

1 preservation of the public peace, health, or safety, or support of the
2 state government and its existing public institutions, and takes effect
3 July 1, 2011.

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