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SENATE BILL 5246

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State of Washington

60th Legislature

2007 Regular Session

By Senators Hargrove, Brandland, McAuliffe and Stevens; by request of Department of Social and Health Services

Read first time 01/15/2007. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to the placement of children; amending RCW  
2 13.34.130; and reenacting and amending RCW 74.15.020.

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

4 **Sec. 1.** RCW 74.15.020 and 2006 c 265 s 401, 2006 c 90 s 1, and  
5 2006 c 54 s 7 are each reenacted and amended to read as follows:

6 For the purpose of this chapter and RCW 74.13.031, and unless  
7 otherwise clearly indicated by the context thereof, the following terms  
8 shall mean:

9 (1) "Agency" means any person, firm, partnership, association,  
10 corporation, or facility which receives children, expectant mothers, or  
11 persons with developmental disabilities for control, care, or  
12 maintenance outside their own homes, or which places, arranges the  
13 placement of, or assists in the placement of children, expectant  
14 mothers, or persons with developmental disabilities for foster care or  
15 placement of children for adoption, and shall include the following  
16 irrespective of whether there is compensation to the agency or to the  
17 children, expectant mothers or persons with developmental disabilities  
18 for services rendered:

1 (a) "Child-placing agency" means an agency which places a child or  
2 children for temporary care, continued care, or for adoption;

3 (b) "Community facility" means a group care facility operated for  
4 the care of juveniles committed to the department under RCW 13.40.185.  
5 A county detention facility that houses juveniles committed to the  
6 department under RCW 13.40.185 pursuant to a contract with the  
7 department is not a community facility;

8 (c) "Crisis residential center" means an agency which is a  
9 temporary protective residential facility operated to perform the  
10 duties specified in chapter 13.32A RCW, in the manner provided in RCW  
11 74.13.032 through 74.13.036;

12 (d) "Emergency respite center" is an agency that may be commonly  
13 known as a crisis nursery, that provides emergency and crisis care for  
14 up to seventy-two hours to children who have been admitted by their  
15 parents or guardians to prevent abuse or neglect. Emergency respite  
16 centers may operate for up to twenty-four hours a day, and for up to  
17 seven days a week. Emergency respite centers may provide care for  
18 children ages birth through seventeen, and for persons eighteen through  
19 twenty with developmental disabilities who are admitted with a sibling  
20 or siblings through age seventeen. Emergency respite centers may not  
21 substitute for crisis residential centers or HOPE centers, or any other  
22 services defined under this section, and may not substitute for  
23 services which are required under chapter 13.32A or 13.34 RCW;

24 (e) "Foster-family home" means an agency which regularly provides  
25 care on a twenty-four hour basis to one or more children, expectant  
26 mothers, or persons with developmental disabilities in the family abode  
27 of the person or persons under whose direct care and supervision the  
28 child, expectant mother, or person with a developmental disability is  
29 placed;

30 (f) "Group-care facility" means an agency, other than a foster-  
31 family home, which is maintained and operated for the care of a group  
32 of children on a twenty-four hour basis;

33 (g) "HOPE center" means an agency licensed by the secretary to  
34 provide temporary residential placement and other services to street  
35 youth. A street youth may remain in a HOPE center for thirty days  
36 while services are arranged and permanent placement is coordinated. No  
37 street youth may stay longer than thirty days unless approved by the  
38 department and any additional days approved by the department must be

1 based on the unavailability of a long-term placement option. A street  
2 youth whose parent wants him or her returned to home may remain in a  
3 HOPE center until his or her parent arranges return of the youth, not  
4 longer. All other street youth must have court approval under chapter  
5 13.34 or 13.32A RCW to remain in a HOPE center up to thirty days;

6 (h) "Maternity service" means an agency which provides or arranges  
7 for care or services to expectant mothers, before or during  
8 confinement, or which provides care as needed to mothers and their  
9 infants after confinement;

10 (i) "Responsible living skills program" means an agency licensed by  
11 the secretary that provides residential and transitional living  
12 services to persons ages sixteen to eighteen who are dependent under  
13 chapter 13.34 RCW and who have been unable to live in his or her  
14 legally authorized residence and, as a result, the minor lived outdoors  
15 or in another unsafe location not intended for occupancy by the minor.  
16 Dependent minors ages fourteen and fifteen may be eligible if no other  
17 placement alternative is available and the department approves the  
18 placement;

19 (j) "Service provider" means the entity that operates a community  
20 facility.

21 (2) "Agency" shall not include the following:

22 (a) Persons related to the child, expectant mother, or person with  
23 developmental disability in the following ways:

24 (i) Any blood relative, including those of half-blood, and  
25 including first cousins, second cousins, nephews or nieces, and persons  
26 of preceding generations as denoted by prefixes of grand, great, or  
27 great-great;

28 (ii) Stepfather, stepmother, stepbrother, and stepsister;

29 (iii) A person who legally adopts a child or the child's parent as  
30 well as the natural and other legally adopted children of such persons,  
31 and other relatives of the adoptive parents in accordance with state  
32 law;

33 (iv) Spouses of any persons named in (i), (ii), or (iii) of this  
34 subsection (2)(a), even after the marriage is terminated; (~~(e)~~)

35 (v) Relatives, as named in (i), (ii), (iii), or (iv) of this  
36 subsection (2)(a), of any half sibling of the child; or

37 (vi) Extended family members, as defined by the law or custom of  
38 the Indian child's tribe or, in the absence of such law or custom, a

1 person who has reached the age of eighteen and who is the Indian  
2 child's grandparent, aunt or uncle, brother or sister, brother-in-law  
3 or sister-in-law, niece or nephew, first or second cousin, or  
4 stepparent who provides care in the family abode on a twenty-four-hour  
5 basis to an Indian child as defined in 25 U.S.C. Sec. 1903(4);

6 (b) Persons who are legal guardians of the child, expectant mother,  
7 or persons with developmental disabilities;

8 (c) Persons who care for a neighbor's or friend's child or  
9 children, with or without compensation, where the parent and person  
10 providing care on a twenty-four-hour basis have agreed to the placement  
11 in writing and the state is not providing any payment for the care;

12 (d) A person, partnership, corporation, or other entity that  
13 provides placement or similar services to exchange students or  
14 international student exchange visitors or persons who have the care of  
15 an exchange student in their home;

16 (e) A person, partnership, corporation, or other entity that  
17 provides placement or similar services to international children who  
18 have entered the country by obtaining visas that meet the criteria for  
19 medical care as established by the United States immigration and  
20 naturalization service, or persons who have the care of such an  
21 international child in their home;

22 (f) Schools, including boarding schools, which are engaged  
23 primarily in education, operate on a definite school year schedule,  
24 follow a stated academic curriculum, accept only school-age children  
25 and do not accept custody of children;

26 (g) Hospitals licensed pursuant to chapter 70.41 RCW when  
27 performing functions defined in chapter 70.41 RCW, nursing homes  
28 licensed under chapter 18.51 RCW and boarding homes licensed under  
29 chapter 18.20 RCW;

30 (h) Licensed physicians or lawyers;

31 (i) Facilities approved and certified under chapter 71A.22 RCW;

32 (j) Any agency having been in operation in this state ten years  
33 prior to June 8, 1967, and not seeking or accepting moneys or  
34 assistance from any state or federal agency, and is supported in part  
35 by an endowment or trust fund;

36 (k) Persons who have a child in their home for purposes of  
37 adoption, if the child was placed in such home by a licensed child-

1 placing agency, an authorized public or tribal agency or court or if a  
2 replacement report has been filed under chapter 26.33 RCW and the  
3 placement has been approved by the court;

4 (l) An agency operated by any unit of local, state, or federal  
5 government or an agency licensed by an Indian tribe pursuant to RCW  
6 74.15.190;

7 (m) A maximum or medium security program for juvenile offenders  
8 operated by or under contract with the department;

9 (n) An agency located on a federal military reservation, except  
10 where the military authorities request that such agency be subject to  
11 the licensing requirements of this chapter.

12 (3) "Department" means the state department of social and health  
13 services.

14 (4) "Family child care licensee" means a person who: (a) Provides  
15 regularly scheduled care for a child or children in the home of the  
16 provider for periods of less than twenty-four hours or, if necessary  
17 due to the nature of the parent's work, for periods equal to or greater  
18 than twenty-four hours; (b) does not receive child care subsidies; and  
19 (c) is licensed by the state under RCW 74.15.030.

20 (5) "Juvenile" means a person under the age of twenty-one who has  
21 been sentenced to a term of confinement under the supervision of the  
22 department under RCW 13.40.185.

23 (6) "Probationary license" means a license issued as a disciplinary  
24 measure to an agency that has previously been issued a full license but  
25 is out of compliance with licensing standards.

26 (7) "Requirement" means any rule, regulation, or standard of care  
27 to be maintained by an agency.

28 (8) "Secretary" means the secretary of social and health services.

29 (9) "Street youth" means a person under the age of eighteen who  
30 lives outdoors or in another unsafe location not intended for occupancy  
31 by the minor and who is not residing with his or her parent or at his  
32 or her legally authorized residence.

33 (10) "Transitional living services" means at a minimum, to the  
34 extent funds are available, the following:

35 (a) Educational services, including basic literacy and  
36 computational skills training, either in local alternative or public  
37 high schools or in a high school equivalency program that leads to  
38 obtaining a high school equivalency degree;

1 (b) Assistance and counseling related to obtaining vocational  
2 training or higher education, job readiness, job search assistance, and  
3 placement programs;

4 (c) Counseling and instruction in life skills such as money  
5 management, home management, consumer skills, parenting, health care,  
6 access to community resources, and transportation and housing options;

7 (d) Individual and group counseling; and

8 (e) Establishing networks with federal agencies and state and local  
9 organizations such as the United States department of labor, employment  
10 and training administration programs including the job training  
11 partnership act which administers private industry councils and the job  
12 corps; vocational rehabilitation; and volunteer programs.

13 **Sec. 2.** RCW 13.34.130 and 2003 c 227 s 3 are each amended to read  
14 as follows:

15 If, after a fact-finding hearing pursuant to RCW 13.34.110, it has  
16 been proven by a preponderance of the evidence that the child is  
17 dependent within the meaning of RCW 13.34.030 after consideration of  
18 the social study prepared pursuant to RCW 13.34.110 and after a  
19 disposition hearing has been held pursuant to RCW 13.34.110, the court  
20 shall enter an order of disposition pursuant to this section.

21 (1) The court shall order one of the following dispositions of the  
22 case:

23 (a) Order a disposition other than removal of the child from his or  
24 her home, which shall provide a program designed to alleviate the  
25 immediate danger to the child, to mitigate or cure any damage the child  
26 has already suffered, and to aid the parents so that the child will not  
27 be endangered in the future. In determining the disposition, the court  
28 should choose those services, including housing assistance, that least  
29 interfere with family autonomy and are adequate to protect the child.

30 (b) Order the child to be removed from his or her home and into the  
31 custody, control, and care of a relative or the department or a  
32 licensed child placing agency for ~~((placement))~~ supervision of the  
33 child's placement. The department or agency supervising the child's  
34 placement has the authority to place the child, subject to review and  
35 approval by the court (i) with a relative as defined in RCW  
36 74.15.020(2)(a), (ii) in a foster family home or group care facility  
37 licensed pursuant to chapter 74.15 RCW, or ~~((in a home not required to~~

1 ~~be licensed pursuant to chapter 74.15 RCW)) (iii) in the home of~~  
2 another suitable person if the child or family has a preexisting  
3 relationship with the individual, and the person has completed all  
4 required criminal history background checks and otherwise appears to  
5 the department or supervising agency to be suitable and competent to  
6 provide care for the child. The department or supervising agency may  
7 only place a child with a person not related to the child as defined in  
8 RCW 74.15.020(2)(a) when the court finds that such placement is in the  
9 best interest of the child. Placement of the child with a relative  
10 under this subsection shall be given preference by the court. Unless  
11 there is reasonable cause to believe that the health, safety, or  
12 welfare of the child would be jeopardized or that efforts to reunite  
13 the parent and child will be hindered, such child shall be placed with  
14 a person who is: (i) Related to the child as defined in RCW  
15 74.15.020(2)(a) with whom the child has a relationship and is  
16 comfortable; and (ii) willing and available to care for the child.

17 ~~(2) ((Placement of the child with a relative under this subsection~~  
18 ~~shall be given preference by the court.))~~ An order for out-of-home  
19 placement may be made only if the court finds that reasonable efforts  
20 have been made to prevent or eliminate the need for removal of the  
21 child from the child's home and to make it possible for the child to  
22 return home, specifying the services that have been provided to the  
23 child and the child's parent, guardian, or legal custodian, and that  
24 preventive services have been offered or provided and have failed to  
25 prevent the need for out-of-home placement, unless the health, safety,  
26 and welfare of the child cannot be protected adequately in the home,  
27 and that:

28 (a) There is no parent or guardian available to care for such  
29 child;

30 (b) The parent, guardian, or legal custodian is not willing to take  
31 custody of the child; or

32 (c) The court finds, by clear, cogent, and convincing evidence, a  
33 manifest danger exists that the child will suffer serious abuse or  
34 neglect if the child is not removed from the home and an order under  
35 RCW 26.44.063 would not protect the child from danger.

36 (3) If the court has ordered a child removed from his or her home  
37 pursuant to subsection (1)(b) of this section, the court shall consider

1 whether it is in a child's best interest to be placed with, have  
2 contact with, or have visits with siblings.

3 (a) There shall be a presumption that such placement, contact, or  
4 visits are in the best interests of the child provided that:

5 (i) The court has jurisdiction over all siblings subject to the  
6 order of placement, contact, or visitation pursuant to petitions filed  
7 under this chapter or the parents of a child for whom there is no  
8 jurisdiction are willing to agree; and

9 (ii) There is no reasonable cause to believe that the health,  
10 safety, or welfare of any child subject to the order of placement,  
11 contact, or visitation would be jeopardized or that efforts to reunite  
12 the parent and child would be hindered by such placement, contact, or  
13 visitation. In no event shall parental visitation time be reduced in  
14 order to provide sibling visitation.

15 (b) The court may also order placement, contact, or visitation of  
16 a child with a step-brother or step-sister provided that in addition to  
17 the factors in (a) of this subsection, the child has a relationship and  
18 is comfortable with the step-sibling.

19 (4) If the court has ordered a child removed from his or her home  
20 pursuant to subsection (1)(b) of this section, the court may order that  
21 a petition seeking termination of the parent and child relationship be  
22 filed if the requirements of RCW 13.34.132 are met.

23 (5) If there is insufficient information at the time of the  
24 disposition hearing upon which to base a determination regarding the  
25 suitability of a proposed placement with a relative, the child shall  
26 remain in foster care and the court shall direct the supervising agency  
27 to conduct necessary background investigations as provided in chapter  
28 74.15 RCW and report the results of such investigation to the court  
29 within thirty days. However, if such relative appears otherwise  
30 suitable and competent to provide care and treatment, the criminal  
31 history background check need not be completed before placement, but as  
32 soon as possible after placement. Any placements with relatives,  
33 pursuant to this section, shall be contingent upon cooperation by the  
34 relative with the agency case plan and compliance with court orders  
35 related to the care and supervision of the child including, but not  
36 limited to, court orders regarding parent-child contacts, sibling  
37 contacts, and any other conditions imposed by the court. Noncompliance



1 with the case plan or court order shall be grounds for removal of the  
2 child from the relative's home, subject to review by the court.

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