

Chapter 26.33 RCW
ADOPTION

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RCW 26.33.010 Intent. The legislature finds that the purpose of adoption is to provide stable homes for children. Adoptions should be handled efficiently, but the rights of all parties must be protected. The guiding principle must be determining what is in the best interest of the child. It is the intent of the legislature that this chapter be used only as a means for placing children in adoptive homes and not as

a means for parents to avoid responsibility for their children unless the department, an agency, or a prospective adoptive parent is willing to assume the responsibility for the child. [1984 c 155 s 1.]

RCW 26.33.020 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Adoptee" means a person who is to be adopted or who has been adopted.

(2) "Adoptive parent" means the person or persons who seek to adopt or have adopted an adoptee.

(3) "Agency" means any public or private association, corporation, or individual licensed or certified by the department as a child-placing agency under chapter 74.15 RCW or as an adoption agency.

(4) "Alleged genetic parent" has the same meaning as defined in RCW 26.26A.010.

(5) "Birth parent" means the woman who gave birth to the child or alleged genetic parent of the child, including a presumed parent under chapter 26.26A RCW, whether or not any such person's parent-child relationship has been terminated by a court of competent jurisdiction. "Birth parent" does not include a woman who gave birth to the child or alleged genetic parent of the child, including a presumed parent under chapter 26.26A RCW, if the parent-child relationship was terminated because of an act for which the person was found guilty under chapter 9A.42 or 9A.44 RCW.

(6) "Child" means a person under eighteen years of age.

(7) "Court" means the superior court.

(8) "Department" means the department of children, youth, and families.

(9) "Guardian ad litem" means a person, not related to a party to the action, appointed by the court to represent the best interests of a party who is under a legal disability.

(10) "Individual approved by the court" or "qualified salaried court employee" means a person who has a master's degree in social work or a related field and one year of experience in social work, or a bachelor's degree and two years of experience in social work, and includes a person not having such qualifications only if the court makes specific findings of fact that are entered of record establishing that the person has reasonably equivalent experience.

(11) "Legal guardian" means the department, an agency, or a person, other than a parent or stepparent, appointed by the court to promote the child's general welfare, with the authority and duty to make decisions affecting the child's development.

(12) "Nonidentifying information" includes, but is not limited to, the following information about the birth parents, adoptive parents, and adoptee:

(a) Age in years at the time of adoption;

(b) Heritage, including nationality, ethnic background, and race;

(c) Education, including number of years of school completed at the time of adoption, but not name or location of school;

(d) General physical appearance, including height, weight, color of hair, eyes, and skin, or other information of a similar nature;

(e) Religion;

(f) Occupation, but not specific titles or places of employment;

(g) Talents, hobbies, and special interests;

- (h) Circumstances leading to the adoption;
- (i) Medical and genetic history of birth parents;
- (j) First names;
- (k) Other children of birth parents by age, sex, and medical history;
- (l) Extended family of birth parents by age, sex, and medical history;
- (m) The fact of the death, and age and cause, if known;
- (n) Photographs;
- (o) Name of agency or individual that facilitated the adoption.
- (13) "Parent" has the same meaning as defined in RCW 26.26A.010.
- (14) "Relinquish or relinquishment" means the voluntary surrender of custody of a child to the department, an agency, or prospective adoptive parents. [2019 c 46 s 5034. Prior: 2017 3rd sp.s. c 6 s 319; 1993 c 81 s 1; 1990 c 146 s 1; 1984 c 155 s 2.]

Effective date—2017 3rd sp.s. c 6 ss 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

RCW 26.33.030 Petitions—Place of filing—Consolidation of petitions and hearings. (1) A petition under this chapter may be filed in the superior court of the county in which the petitioner is a resident or of the county in which the adoptee is domiciled.
 (2) A petition under this chapter may be consolidated with any other petition under this chapter. A hearing under this chapter may be consolidated with any other hearing under this chapter. [1984 c 155 s 3.]

RCW 26.33.040 Petitions—Application of federal Indian child welfare act—Requirements—Federal servicemembers civil relief act statement and findings. (1)(a) Every petition filed in proceedings under this chapter shall contain a statement alleging whether the child is or may be an Indian child as defined in RCW 13.38.040. If the child is an Indian child, chapter 13.38 RCW shall apply.
 (b) Every order or decree entered in any proceeding under this chapter shall contain a finding that the federal Indian child welfare act or chapter 13.38 RCW does or does not apply. Where there is a finding that the federal Indian child welfare act or chapter 13.38 RCW does apply, the decree or order must also contain a finding that all notice, consent, and evidentiary requirements under the federal Indian child welfare act, chapter 13.38 RCW, and this section have been satisfied.
 (c) In proceedings under this chapter, the adoption facilitator shall file a sworn statement documenting efforts to determine whether an Indian child is involved.
 (d) Whenever the court or the petitioning party knows or has reason to know that an Indian child is involved in any termination, relinquishment, or placement proceeding under this chapter, the petitioning party shall promptly provide notice to the child's parent or Indian custodian and to the agent designated by the child's Indian

tribe to receive such notices. Notice shall be by certified mail with return receipt requested. If the identity or location of the parent or Indian custodian and the tribe cannot be determined, notice shall be given to the secretary of the interior in the manner described in 25 C.F.R. 23.11. If the child may be a member of more than one tribe, the petitioning party shall send notice to all tribes the petitioner has reason to know may be affiliated with the child.

(e) The notice shall: (i) Contain a statement notifying the parent or custodian and the tribe of the pending proceeding; and (ii) notify the tribe of the tribe's right to intervene and/or request that the case be transferred to tribal court.

(f) No termination, relinquishment, or placement proceeding shall be held until at least ten days after receipt of notice by the tribe. If the tribe requests, the court shall grant the tribe up to twenty additional days to prepare for such proceeding.

(2) Every petition filed in proceedings under this chapter shall contain a statement alleging whether the federal servicemembers civil relief act of 2004, 50 U.S.C. Sec. 501 et seq. applies to the proceeding. Every order or decree entered in any proceeding under this chapter shall contain a finding that the federal servicemembers civil relief act of 2004 does or does not apply. [2011 c 309 s 32; 2004 c 64 s 2; 1991 c 136 s 1; 1984 c 155 s 4.]

RCW 26.33.045 Delay or denial of adoption on basis of race, color, or national origin prohibited—Consideration in placement—

Exception—Training. (1) An adoption shall not be delayed or denied on the basis of the race, color, or national origin of the adoptive parent or the child involved. However, when the department or an agency considers whether a placement option is in a child's best interests, the department or agency may consider the cultural, ethnic, or racial background of the child and the capacity of prospective adoptive parents to meet the needs of a child of this background. This provision shall not apply to or affect the application of the Indian Child Welfare Act of 1978, 25 U.S.C. Sec. 1901 et seq.

(2) The department shall create standardized training to be provided to all department employees involved in the placement of a child to assure compliance with Title IV of the civil rights act of 1964 and the multiethnic placement act of 1994, as amended by the interethnic adoption provisions of the small business job protection act of 1996. Such training shall be open to agency employees. [2006 c 248 s 1; 1995 c 270 s 8.]

Finding—1995 c 270: See note following RCW 74.13A.040.

RCW 26.33.050 Validity of consents, relinquishments, or orders of termination from other jurisdictions—Burden of proof.

Any consent, relinquishment, or order of termination that would be valid in the jurisdiction in which it was executed or obtained, and which comports with due process of law, is valid in Washington state, but the burden of proof as to validity and compliance is on the petitioner. [1984 c 155 s 5.]

RCW 26.33.060 Hearings—Procedure—Witnesses. All hearings under this chapter shall be heard by the court without a jury. Unless the parties and the court agree otherwise, proceedings of contested hearings shall be recorded. The general public shall be excluded and only those persons shall be admitted whose presence is requested by any person entitled to notice under this chapter or whom the judge finds to have a direct interest in the case or in the work of the court. Persons so admitted shall not disclose any information obtained at the hearing which would identify the individual adoptee or parent involved. The court may require the presence of witnesses deemed necessary to the disposition of the petition, including persons making any report, study, or examination which is before the court if those persons are reasonably available. A person who has executed a valid waiver need not appear at the hearing. If the court finds that it is in the child's best interest, the child may be excluded from the hearing. [1984 c 155 s 6.]

RCW 26.33.070 Appointment of guardian ad litem—When required—Payment of fees. (1) The court shall appoint a guardian ad litem for any parent or *alleged father under eighteen years of age in any proceeding under this chapter. The court may appoint a guardian ad litem for a child adoptee or any incompetent party in any proceeding under this chapter. The guardian ad litem for a parent or *alleged father, in addition to determining what is in the best interest of the party, shall make an investigation and report to the court concerning whether any written consent to adoption or petition for relinquishment signed by the parent or *alleged father was signed voluntarily and with an understanding of the consequences of the action. If the child to be relinquished is a dependent child under chapter 13.34 RCW and the minor parent is represented by an attorney or guardian ad litem in the dependency proceeding, the court may rely on the minor parent's dependency court attorney or guardian ad litem to make a report to the court as provided in this subsection.

(2) The court in the county in which a petition is filed shall direct who shall pay the fees of a guardian ad litem or attorney appointed under this chapter and shall approve the payment of the fees. If the court orders the parties to pay the fees of the guardian ad litem, the fees must be established pursuant to the procedures in RCW 26.12.183. [2011 c 292 s 3; 1984 c 155 s 7.]

***Reviser's note:** RCW 26.33.020 was amended by 2019 c 46 s 5034, changing the definition of "alleged father" to "alleged genetic parent."

RCW 26.33.080 Petition for relinquishment—Filing—Written consent required. (1) A parent, an *alleged father, the department, or an agency may file with the court a petition to relinquish a child to the department or an agency. The parent's or *alleged father's written consent to adoption shall accompany the petition. The written consent of the department or the agency to assume custody shall be filed with the petition.

(2) A parent, *alleged father, or prospective adoptive parent may file with the court a petition to relinquish a child to the prospective adoptive parent. The parent's or *alleged father's written consent to adoption shall accompany the petition. The written consent

of the prospective adoptive parent to assume custody shall be filed with the petition. The identity of the prospective adoptive parent need not be disclosed to the petitioner.

(3) A petition for relinquishment, together with the written consent to adoption, may be filed before the child's birth. If the child is an Indian child as defined in 25 U.S.C. Sec. 1903(4), the petition and consent shall not be signed until at least ten days after the child's birth and shall be recorded before a court of competent jurisdiction pursuant to 25 U.S.C. Sec. 1913(a). [1987 c 170 s 3; 1985 c 421 s 1; 1984 c 155 s 8.]

***Reviser's note:** RCW 26.33.020 was amended by 2019 c 46 s 5034, changing the definition of "alleged father" to "alleged genetic parent."

Severability—1987 c 170: See note following RCW 13.04.030.

RCW 26.33.090 Petition for relinquishment—Hearing—Temporary custody order—Notice—Order of relinquishment. (1) The court shall set a time and place for a hearing on the petition for relinquishment. The hearing may not be held sooner than forty-eight hours after the child's birth or the signing of all necessary consents to adoption, whichever is later. However, if the child is an Indian child, the hearing shall not be held sooner than ten days after the child's birth, and no consent shall be valid unless signed at least ten days after the child's birth and recorded before a court of competent jurisdiction pursuant to 25 U.S.C. Sec. 1913(a). Except where the child is an Indian child, the court may enter a temporary order giving custody of the child to the prospective adoptive parent, if a preplacement report has been filed, or to the department or agency to whom the child will be relinquished pending the court's hearing on the petition. If the child is an Indian child, the court may enter a temporary custody order under this subsection only if the requirements of 25 U.S.C. Sec. 1913(a) regarding voluntary foster care placement have been satisfied.

(2) Notice of the hearing shall be served on any relinquishing parent or *alleged father, and the department or agency in the manner prescribed by RCW 26.33.310. If the child is an Indian child, notice of the hearing shall also be served on the child's tribe in the manner prescribed by RCW 26.33.310.

(3) The court may require the parent to appear personally and enter his or her consent to adoption on the record. However, if the child is an Indian child, the court shall require the consenting parent to appear personally before a court of competent jurisdiction to enter on the record his or her consent to the relinquishment or adoption. The court shall determine that any written consent has been validly executed, and if the child is an Indian child, such court shall further certify that the requirements of 25 U.S.C. Sec. 1913(a) have been satisfied. If the court determines it is in the best interests of the child, the court shall approve the petition for relinquishment.

(4) If the court approves the petition, it shall award custody of the child to the department, agency, or prospective adoptive parent, who shall be appointed legal guardian. The legal guardian shall be financially responsible for support of the child until further order of the court. The court shall also enter an order pursuant to RCW

26.33.130 terminating the parent-child relationship of the parent and the child.

(5) An order of relinquishment to an agency or the department shall include an order authorizing the agency to place the child with a prospective adoptive parent. [1987 c 170 s 4; 1985 c 421 s 2; 1984 c 155 s 9.]

***Reviser's note:** RCW 26.33.020 was amended by 2019 c 46 s 5034, changing the definition of "alleged father" to "alleged genetic parent."

Severability—1987 c 170: See note following RCW 13.04.030.

RCW 26.33.100 Petition for termination—Who may file—Contents—Time. (1) A petition for termination of the parent-child relationship of a parent or *alleged father who has not executed a written consent to adoption may be filed by:

(a) The department or an agency;

(b) The prospective adoptive parent to whom a child has been or may be relinquished if the prospective adoptive parent has filed or consented to a petition for relinquishment; or

(c) The prospective adoptive parent if he or she seeks to adopt the child of his or her spouse.

(2) The petition for termination of the parent-child relationship shall contain a statement of facts identifying the petitioner, the parents, the legal guardian, a guardian ad litem for a party, any *alleged father, and the child. The petition shall state the facts forming the basis for the petition and shall be signed under penalty of perjury or be verified.

(3) The petition may be filed before the child's birth. [1985 c 421 s 3; 1984 c 155 s 10.]

***Reviser's note:** RCW 26.33.020 was amended by 2019 c 46 s 5034, changing the definition of "alleged father" to "alleged genetic parent."

RCW 26.33.110 Petition for termination—Time and place of hearing—Notice of hearing and petition—Contents. (1) The court shall set a time and place for a hearing on the petition for termination of the parent-child relationship, which shall not be held sooner than forty-eight hours after the child's birth. However, if the child is an Indian child, the hearing shall not be held sooner than ten days after the child's birth and the time of the hearing shall be extended up to twenty additional days from the date of the scheduled hearing upon the motion of the parent, Indian custodian, or the child's tribe.

(2) Notice of the hearing shall be served on the petitioner, the nonconsenting parent or alleged genetic parent, the legal guardian of a party, and the guardian ad litem of a party, in the manner prescribed by RCW 26.33.310. If the child is an Indian child, notice of the hearing shall also be served on the child's tribe in the manner prescribed by 25 U.S.C. Sec. 1912(a).

(3) Except as otherwise provided in this section, the notice of the petition shall:

(a) State the date and place of birth. If the petition is filed prior to birth, the notice shall state the approximate date and

location of conception of the child and the expected date of birth, and shall identify the mother;

(b) Inform the nonconsenting parent or alleged genetic parent that: (i) He or she has a right to be represented by counsel and that counsel will be appointed for an indigent person who requests counsel; and (ii) failure to respond to the termination action within twenty days of service if served within the state or thirty days if served outside of this state, will result in the termination of his or her parent-child relationship with respect to the child;

(c) Inform an alleged genetic parent that failure to file a claim of parentage under chapter 26.26A or 26.26B RCW or to respond to the petition, within twenty days of the date of service of the petition is grounds to terminate his or her parent-child relationship with respect to the child;

(d) Inform an alleged genetic parent of an Indian child that if he or she acknowledges parentage of the child or if his or her parentage of the child is established prior to the termination of the parent-child relationship, that his or her parental rights may not be terminated unless he or she: (i) Gives valid consent to termination, or (ii) his or her parent-child relationship is terminated involuntarily pursuant to chapter 26.33 or 13.34 RCW. [2019 c 46 s 5035; 1995 c 270 s 5; 1987 c 170 s 5; 1985 c 421 s 4; 1984 c 155 s 11.]

Finding—1995 c 270: See note following RCW 74.13A.040.

Severability—1987 c 170: See note following RCW 13.04.030.

RCW 26.33.120 Termination—Grounds—Failure to appear. (1)

Except in the case of an Indian child and his or her parent, the parent-child relationship of a parent may be terminated upon a showing by clear, cogent, and convincing evidence that it is in the best interest of the child to terminate the relationship and that the parent has failed to perform parental duties under circumstances showing a substantial lack of regard for his or her parental obligations and is withholding consent to adoption contrary to the best interest of the child.

(2) Except in the case of an Indian child and his or her *alleged father, the parent-child relationship of an *alleged father who appears and claims paternity may be terminated upon a showing by clear, cogent, and convincing evidence that it is in the best interest of the child to terminate the relationship and that:

(a) The *alleged father has failed to perform parental duties under circumstances showing a substantial lack of regard for his parental obligations and is withholding consent to adoption contrary to the best interest of the child; or

(b) He is not the father.

(3) The parent-child relationship of a parent or an *alleged father may be terminated if the parent or *alleged father fails to appear after being notified of the hearing in the manner prescribed by RCW 26.33.310.

(4) The parent-child relationship of an Indian child and his or her parent or *alleged father where paternity has been claimed or established, may be terminated only pursuant to the standards set forth in 25 U.S.C. Sec. 1912(f). [1987 c 170 s 6; 1984 c 155 s 12.]

***Reviser's note:** RCW 26.33.020 was amended by 2019 c 46 s 5034, changing the definition of "alleged father" to "alleged genetic parent."

Severability—1987 c 170: See note following RCW 13.04.030.

RCW 26.33.130 Termination order—Effect. (1) If the court determines, after a hearing, that the parent-child relationship should be terminated pursuant to RCW 26.33.090 or 26.33.120, the court shall enter an appropriate order terminating the parent-child relationship.

(2) An order terminating the parent-child relationship divests the parent and the child of all legal rights, powers, privileges, immunities, duties, and obligations with respect to each other except past-due child support obligations owed by the parent.

(3) The parent-child relationship may be terminated with respect to one parent without affecting the parent-child relationship between the child and the other parent.

(4) The parent or *alleged father whose parent-child relationship with the child has been terminated is not thereafter entitled to notice of proceedings for the adoption of the child by another, nor has the parent or *alleged father any right to contest the adoption or otherwise to participate in the proceedings unless an appeal from the termination order is pending or unless otherwise ordered by the court. [1984 c 155 s 13.]

***Reviser's note:** RCW 26.33.020 was amended by 2019 c 46 s 5034, changing the definition of "alleged father" to "alleged genetic parent."

RCW 26.33.140 Who may adopt or be adopted. (1) Any person may be adopted, regardless of his or her age or residence.

(2) Any person who is legally competent and who is eighteen years of age or older may be an adoptive parent. [1984 c 155 s 14.]

RCW 26.33.150 Petition for adoption—Filing—Contents—Preplacement report required. (1) An adoption proceeding is initiated by filing with the court a petition for adoption. The petition shall be filed by the prospective adoptive parent.

(2) A petition for adoption shall contain the following information:

(a) The name and address of the petitioner;

(b) The name, if any, gender, and place and date of birth, if known, of the adoptee;

(c) A statement that the child is or is not an Indian child covered by the Indian Child Welfare Act; and

(d) The name and address of the department or any agency, legal guardian, or person having custody of the child.

(3) The written consent to adoption of any person, the department, or agency which has been executed shall be filed with the petition.

(4) The petition shall be signed under penalty of perjury by the petitioner. If the petitioner is married, the petitioner's spouse shall join in the petition.

(5) If a preplacement report prepared pursuant to RCW 26.33.190 has not been previously filed with the court, the preplacement report shall be filed with the petition for adoption. [1984 c 155 s 15.]

RCW 26.33.160 Consent to adoption—When revocable—Procedure.

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

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

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

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

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

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

- (a) It is given subject to approval of the court;
- (b) It has no force or effect until approved by the court;
- (c) The birth parent is or is not of Native American or Alaska native ancestry;
- (d) The consent will not be presented to the court until forty-eight hours after it is signed or forty-eight hours after the birth of the child, whichever occurs later;

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

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

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

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

(h) In the case of a consent to an adoption of an Indian child, no consent shall be valid unless the consent is executed in writing more than ten days after the birth of the child and unless the consent is recorded before a court of competent jurisdiction pursuant to 25 U.S.C. Sec. 1913(a). Consent may be withdrawn for any reason at any time prior to the entry of the final decree of adoption. Consent may be withdrawn for fraud or duress within two years of the entry of the final decree of adoption. Revocation of the consent prior to a final decree of adoption, may be delivered or mailed to the clerk of the court or made orally to the court which shall certify such revocation. Revocation of the consent is effective if received by the clerk of the court prior to the entry of the final decree of adoption or made orally to the court at any time prior to the entry of the final decree of adoption. Upon withdrawal of consent, the court shall return the child to the parent unless the child has been taken into custody pursuant to RCW 13.34.050 or 26.44.050, placed in shelter care pursuant to RCW 13.34.060, or placed in foster care pursuant to RCW 13.34.130; and

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

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

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

(6) There must be a witness to the consent of the parent or *alleged father. The witness must be at least eighteen years of age and selected by the parent or *alleged father. The consent document shall contain a statement identifying by name, address, and relationship the witness selected by the parent or *alleged father. [1991 c 136 s 2; 1990 c 146 s 2; 1987 c 170 s 7; 1985 c 421 s 5; 1984 c 155 s 16.]

***Reviser's note:** RCW 26.33.020 was amended by 2019 c 46 s 5034, changing the definition of "alleged father" to "alleged genetic parent."

Severability—1987 c 170: See note following RCW 13.04.030.

RCW 26.33.170 Consent to adoption—When not required. (1) An agency's, the department's, or a legal guardian's consent to adoption may be dispensed with if the court determines by clear, cogent and convincing evidence that the proposed adoption is in the best interests of the adoptee.

(2) An *alleged father's, birth parent's, or parent's consent to adoption shall be dispensed with if the court finds that the proposed adoption is in the best interests of the adoptee and:

(a) The *alleged father, birth parent, or parent has been found guilty of rape under chapter 9A.44 RCW or incest under RCW 9A.64.020, where the adoptee was the victim of the rape or incest; or

(b) The *alleged father, birth parent, or parent has been found guilty of rape under chapter 9A.44 RCW or incest under RCW 9A.64.020, or has been found by clear and convincing evidence to have committed a sexual assault, where the other parent of the adoptee was the victim of the rape, incest, or sexual assault and the adoptee was conceived as a result of the rape, incest, or sexual assault, unless the parent who is the victim indicates by affidavit or sworn testimony that consent to adoption by the person who committed the rape, incest, or sexual assault should occur.

(3) Nothing in this section shall be construed to eliminate the notice provisions of this chapter. [2017 c 234 s 3; 1999 c 173 s 1; 1988 c 203 s 1; 1984 c 155 s 17.]

***Reviser's note:** RCW 26.33.020 was amended by 2019 c 46 s 5034, changing the definition of "alleged father" to "alleged genetic parent."

Severability—1999 c 173: See note following RCW 13.34.125.

RCW 26.33.180 Preplacement report required before placement with adoptive parents—Exception. Except as provided in RCW 26.33.220, a child shall not be placed with prospective adoptive parents until a preplacement report has been filed with the court. [1984 c 155 s 18.]

RCW 26.33.190 Preplacement report—Requirements—Fees. (1) Any person may at any time request an agency, the department, an individual approved by the court, or a qualified salaried court employee to prepare a preplacement report. A certificate signed under penalty of perjury by the person preparing the report specifying his or her qualifications as required in this chapter shall be attached to or filed with each preplacement report and shall include a statement of training or experience that qualifies the person preparing the report to discuss relevant adoption issues. A person may have more than one preplacement report prepared. All preplacement reports shall be filed with the court in which the petition for adoption is filed.

(2) The preplacement report shall be a written document setting forth all relevant information relating to the fitness of the person requesting the report as an adoptive parent. The report shall be based on a study which shall include an investigation of the home environment, family life, health, facilities, and resources of the person requesting the report. The report shall include a list of the sources of information on which the report is based. The report shall include a recommendation as to the fitness of the person requesting the report to be an adoptive parent. The report shall also verify that

the following issues were discussed with the prospective adoptive parents:

(a) The concept of adoption as a lifelong developmental process and commitment;

(b) The potential for the child to have feelings of identity confusion and loss regarding separation from the birth parents;

(c) If applicable, the relevance of the child's relationship with siblings and the potential benefit to the child of providing for a continuing relationship and contact between the child and known siblings;

(d) Disclosure of the fact of adoption to the child;

(e) The child's possible questions about birth parents and relatives; and

(f) The relevance of the child's racial, ethnic, and cultural heritage.

(3) All preplacement reports shall include a background check of any conviction records, pending charges, or disciplinary board final decisions of prospective adoptive parents. The background check shall include an examination of state and national criminal identification data provided by the Washington state patrol criminal identification system including, but not limited to, a fingerprint-based background check of national crime information databases for any person being investigated. It shall also include a review of any child abuse and neglect history of any adult living in the prospective adoptive parents' home. The background check of the child abuse and neglect history shall include a review of the child abuse and neglect registries of all states in which the prospective adoptive parents or any other adult living in the home have lived during the five years preceding the date of the preplacement report.

(4) An agency, the department, or a court approved individual may charge a reasonable fee based on the time spent in conducting the study and preparing the preplacement report. The court may set a reasonable fee for conducting the study and preparing the report when a court employee has prepared the report. An agency, the department, a court approved individual, or the court may reduce or waive the fee if the financial condition of the person requesting the report so warrants. An agency's, the department's, or court approved individual's, fee is subject to review by the court upon request of the person requesting the report.

(5) The person requesting the report shall designate to the agency, the department, the court approved individual, or the court in writing the county in which the preplacement report is to be filed. If the person requesting the report has not filed a petition for adoption, the report shall be indexed in the name of the person requesting the report and a cause number shall be assigned. A fee shall not be charged for filing the report. The applicable filing fee may be charged at the time a petition governed by this chapter is filed. Any subsequent preplacement reports shall be filed together with the original report.

(6) A copy of the completed preplacement report shall be delivered to the person requesting the report.

(7) A person may request that a report not be completed. A reasonable fee may be charged for the value of work done. [2009 c 234 s 4; 2007 c 387 s 2; 1991 c 136 s 3; 1990 c 146 s 3; 1984 c 155 s 19.]

RCW 26.33.200 Post-placement report—Requirements—Exception—

Fees. (1) Except as provided in RCW 26.33.220, at the time the petition for adoption is filed, the court shall order a post-placement report made to determine the nature and adequacy of the placement and to determine if the placement is in the best interest of the child. The report shall be prepared by an agency, the department, an individual approved by the court, or a qualified salaried court employee appointed by the court. A certificate signed under penalty of perjury by the person preparing the report specifying his or her qualifications as required in this chapter shall be attached to or filed with each post-placement report. The report shall be in writing and contain all reasonably available information concerning the physical and mental condition of the child, home environment, family life, health, facilities and resources of the petitioners, and any other facts and circumstances relating to the propriety and advisability of the adoption. The report shall also include, if relevant, information on the child's special cultural heritage, including membership in any Indian tribe or band. The report shall be filed within sixty days of the date of appointment, unless the time is extended by the court. The preplacement report shall be made available to the person appointed to make the post-placement report.

(2) A fee may be charged for preparation of the post-placement report in the same manner as for a preplacement report under RCW 26.33.190. [1990 c 146 s 4; 1984 c 155 s 20.]

RCW 26.33.210 Preplacement or post-placement report—Department or agency may make report. The department or an agency having the custody of a child may make the preplacement or post-placement report on a petitioner for the adoption of that child. [1984 c 155 s 21.]

RCW 26.33.220 Preplacement and post-placement reports—When not required. Unless otherwise ordered by the court, the reports required by RCW 26.33.190 are not required if the petitioner seeks to adopt the child of the petitioner's spouse. The reports required by RCW 26.33.190 and 26.33.200 are not required if the adoptee is eighteen years of age or older. [1984 c 155 s 22.]

RCW 26.33.230 Notice of proceedings at which preplacement reports considered—Contents—Proof of service—Appearance—Waiver. The petitioner shall give not less than three days written notice of any proceeding at which a preplacement report will be considered to all agencies, any court approved individual, or any court employee requested by the petitioner to make a preplacement report. The notice shall state the name of the petitioner, the cause number of the proceeding, the time and place of the hearing, and the object of the hearing. Proof of service on the agency or court approved individual in form satisfactory to the court shall be furnished. The agency or court approved individual may appear at the hearing and give testimony concerning any matters relevant to the relinquishment or the adoption and its recommendation as to the fitness of petitioners as parents. The agency or court approved individual may in writing acknowledge notice and state to the court that the agency or court approved individual does not desire to participate in the hearing or the

agency or court approved individual may in writing waive notice of any hearing. [1984 c 155 s 24.]

RCW 26.33.240 Petition for adoption—Hearing—Notice—

Disposition. (1) After the reports required by RCW 26.33.190 and 26.33.200 have been filed, the court shall schedule a hearing on the petition for adoption upon request of the petitioner for adoption. Notice of the date, time, and place of hearing shall be given to the petitioner and any person or agency whose consent to adoption is required under RCW 26.33.160, unless the person or agency has waived in writing the right to receive notice of the hearing. If the child is an Indian child, notice shall also be given to the child's tribe. Notice shall be given in the manner prescribed by RCW 26.33.310.

(2) Notice of the adoption hearing shall also be given to any person who or agency which has prepared a preplacement report. The notice shall be given in the manner prescribed by RCW 26.33.230.

(3) If the court determines, after review of the petition, preplacement and post-placement reports, and other evidence introduced at the hearing, that all necessary consents to adoption are valid or have been dispensed with pursuant to RCW 26.33.170 and that the adoption is in the best interest of the adoptee, and, in the case of an adoption of an Indian child, that the adoptive parents are within the placement preferences of RCW 13.38.180 or good cause to the contrary has been shown on the record, the court shall enter a decree of adoption pursuant to RCW 26.33.250.

(4) If the court determines the petition should not be granted because the adoption is not in the best interest of the child, the court shall make appropriate provision for the care and custody of the child. [2011 c 309 s 33; 1987 c 170 s 8; 1984 c 155 s 23.]

Severability—1987 c 170: See note following RCW 13.04.030.

RCW 26.33.250 Decree of adoption—Determination of place and date of birth. (1) A decree of adoption shall provide, as a minimum, the following information:

(a) The full original name of the person to be adopted;

(b) The full name of each petitioner for adoption;

(c) Whether the petitioner or petitioners are husband and wife, stepparent, or a single parent;

(d) The full new name of the person adopted, unless the name of the adoptee is not to be changed;

(e) Information to be incorporated in any new certificate of birth to be issued by the state or territorial registrar of vital records; and

(f) The adoptee's date of birth and place of birth as determined under subsection (3) of this section.

(2) Except for the names of the person adopted and the petitioner, information set forth in the decree that differs from that shown on the original birth certificate, alternative birth record, or other information used in lieu of such a record shall be included in the decree only upon a clear showing that the information in the original record is erroneous.

(3) In determining the date and place of birth of a person born outside the United States, the court shall:

(a) If available, enter in the decree the exact date and place of birth as stated in the birth certificate from the country of origin or in the United States department of state's report of birth abroad or in the documents of the United States immigration and naturalization service;

(b) If the exact place of birth is unknown, enter in the decree such information as may be known and designate a place of birth in the country of origin;

(c) If the exact date of birth is unknown, determine a date of birth based upon medical testimony as to the probable chronological age of the adoptee and other evidence regarding the adoptee's age that the court finds appropriate to consider;

(d) In any other case where documents of the United States immigration and naturalization service are not available, the court shall determine the date and place of birth based upon such evidence as the court in its discretion determines appropriate. [1984 c 155 s 25.]

RCW 26.33.260 Decree of adoption—Effect—Accelerated appeal—Limited grounds to challenge—Intent. (1) The entry of a decree of adoption divests any parent or *alleged father who is not married to the adoptive parent or who has not joined in the petition for adoption of all legal rights and obligations in respect to the adoptee, except past-due child support obligations. The adoptee shall be free from all legal obligations of obedience and maintenance in respect to the parent. The adoptee shall be, to all intents and purposes, and for all legal incidents, the child, legal heir, and lawful issue of the adoptive parent, entitled to all rights and privileges, including the right of inheritance and the right to take under testamentary disposition, and subject to all the obligations of a natural child of the adoptive parent.

(2) Any appeal of an adoption decree shall be decided on an accelerated review basis.

(3) Except as otherwise provided in RCW 26.33.160 (3) and (4) (h), no person may challenge an adoption decree on the grounds of:

(a) A person claiming or alleging paternity subsequently appears and alleges lack of prior notice of the proceeding; or

(b) The adoption proceedings were in any other manner defective.

(4) It is the intent of the legislature that this section provide finality for adoptive placements and stable homes for children. [1995 c 270 s 7; 1984 c 155 s 26.]

***Reviser's note:** RCW 26.33.020 was amended by 2019 c 46 s 5034, changing the definition of "alleged father" to "alleged genetic parent."

Finding—1995 c 270: See note following RCW 74.13A.040.

Inheritance by adopted child: RCW 11.04.085.

RCW 26.33.270 Decree of adoption—Protection of certain rights and benefits. An order or decree entered under this chapter shall not disentitle a child to any benefit due the child from any third person, agency, state, or the United States. Action under this chapter shall not affect any rights and benefits that a native American child

derives from the child's descent from a member of an Indian tribe or band. [1984 c 155 s 27.]

RCW 26.33.280 Decree of adoption—Transmittal to state registrar of vital statistics. After a decree of adoption is entered, as soon as the time for appeal has expired, or if an appeal is taken, and the adoption is affirmed on appeal, the clerk of the court shall transmit to the state registrar of vital statistics a certified copy of the decree, along with any additional information and fees required by the registrar. [1984 c 155 s 28.]

RCW 26.33.290 Decree of adoption—Duties of state registrar of vital statistics. Upon receipt of a decree of adoption, the state registrar of vital statistics shall:

(1) Return the decree to the court clerk if all information required by RCW 26.33.250 is not included in the decree;

(2) If the adoptee was born in a state other than Washington, or in a territory of the United States, forward the certificate of adoption to the appropriate health record recording agency of the state or territory of the United States in which the birth occurred;

(3) If the adoptee was born outside of the United States or its territories, issue a new certificate of birth by the office of the state registrar of vital statistics which reflects the information contained in the decree. [1984 c 155 s 29.]

Vital statistics: Chapter 70.58A RCW.

RCW 26.33.295 Open adoption agreements—Agreed orders—Enforcement. (1) Nothing in this chapter shall be construed to prohibit the parties to a proceeding under this chapter from entering into agreements regarding communication with or contact between child adoptees, adoptive parents, siblings of child adoptees, and a birth parent or parents.

(2) Agreements regarding communication with or contact between child adoptees, adoptive parents, siblings of child adoptees, and a birth parent or parents shall not be legally enforceable unless the terms of the agreement are set forth in a written court order entered in accordance with the provisions of this section. The court shall not enter a proposed order unless the terms of such order have been approved in writing by the prospective adoptive parents, any birth parent whose parental rights have not previously been terminated, and, if the child or siblings of the child are in the custody of the department or a licensed child-placing agency, a representative of the department or child-placing agency. If the child is represented by an attorney or guardian ad litem in a proceeding under this chapter or in any other child-custody proceeding, the terms of the proposed order also must be approved in writing by the child's representative. An agreement under this section need not disclose the identity of the parties to be legally enforceable. The court shall not enter a proposed order unless the court finds that the communication or contact with the child adoptee, as agreed upon and as set forth in the proposed order, would be in the child adoptee's best interests.

(3) Failure to comply with the terms of an agreed order regarding communication or contact that has been entered by the court pursuant to this section shall not be grounds for setting aside an adoption decree or revocation of a written consent to an adoption after that consent has been approved by the court as provided in this chapter.

(4) An agreed order entered pursuant to this section may be enforced by a civil action and the prevailing party in that action may be awarded, as part of the costs of the action, a reasonable amount to be fixed by the court as attorneys' fees. The court shall not modify an agreed order under this section unless it finds that the modification is necessary to serve the best interests of the child adoptee, and that: (a) The modification is agreed to by the adoptive parent and the birth parent or parents; or (b) exceptional circumstances have arisen since the agreed order was entered that justify modification of the order.

(5) This section does not require the department or other supervising agency to agree to any specific provisions in an open adoption agreement and does not create a new obligation for the department to provide supervision or transportation for visits between siblings separated by adoption from foster care. [2009 c 234 s 3; 1990 c 285 s 4.]

Findings—Purpose—Severability—1990 c 285: See notes following RCW 74.04.005.

RCW 26.33.300 Adoption statistical data. The department of health shall be a depository for statistical data concerning adoption. It shall furnish to the clerk of each county a data card which shall be completed and filed with the clerk on behalf of each petitioner. The clerk shall forward the completed cards to the department of health which shall compile the data and publish reports summarizing the data. A birth certificate shall not be issued showing the petitioner as the parent of any child adopted in the state of Washington until a data card has been completed and filed. [1991 c 3 s 288; 1990 c 146 s 5; 1984 c 155 s 30.]

RCW 26.33.310 Notice—Requirements—Waiver. (1) Petitions governed by this chapter shall be served in the manner as set forth in the superior court civil rules. Subsequent notice, papers, and pleadings may be served in the manner provided in superior court civil rules.

(2) If personal service on any parent or *alleged father who has not consented to the termination of his or her parental rights can be given, the summons and notice of hearing on the petition to terminate parental rights shall be served at least twenty days before the hearing date if served within the state or thirty days if served outside of this state.

(3) If personal service on the parent or any *alleged father, either within or without this state, cannot be given, notice shall be given: (a) By first-class and registered mail, mailed at least thirty days before the hearing to the person's last known address; and (b) by publication at least once a week for three consecutive weeks with the first publication date at least thirty days before the hearing. Publication shall be in a legal newspaper in the city or town of the

last known address within the United States and its territories of the parent or *alleged father, whether within or without this state, or, if no address is known to the petitioner, publication shall be in the city or town of the last known whereabouts within the United States and its territories; or if no address or whereabouts are known to the petitioner or the last known address is not within the United States and its territories, in the city or town where the proceeding has been commenced.

(4) Notice and appearance may be waived by the department, an agency, a parent, or an *alleged father before the court or in a writing signed under penalty of perjury. The waiver shall contain the current address of the department, agency, parent, or *alleged father. The face of the waiver for a hearing on termination of the parent-child relationship shall contain language explaining the meaning and consequences of the waiver and the meaning and consequences of termination of the parent-child relationship. A person or agency who has executed a waiver shall not be required to appear except in the case of an Indian child where consent to termination or adoption must be certified before a court of competent jurisdiction pursuant to 25 U.S.C. Sec. 1913(a).

(5) If a person entitled to notice is known to the petitioner to be unable to read or understand English, all notices, if practicable, shall be given in that person's native language or through an interpreter.

(6) Where notice to an Indian tribe is to be provided pursuant to this chapter and the department is not a party to the proceeding, notice shall be given to the tribe at least ten business days prior to the hearing by registered mail return receipt requested. [1995 c 270 s 6; 1987 c 170 s 9; 1985 c 421 s 6; 1984 c 155 s 31.]

***Reviser's note:** RCW 26.33.020 was amended by 2019 c 46 s 5034, changing the definition of "alleged father" to "alleged genetic parent."

Finding—1995 c 270: See note following RCW 74.13A.040.

Severability—1987 c 170: See note following RCW 13.04.030.

RCW 26.33.320 Adoption of hard to place children—Court's consideration of state's agreement with prospective adoptive parents.

(1) In deciding whether to grant a petition for adoption of a hard to place child and in reviewing any request for the vacation or modification of a decree of adoption, the superior court shall consider any agreement made or proposed to be made between the department and any prospective adoptive parent for any payment or payments which have been provided or which are to be provided by the department in support of the adoption of such child. Before the date of the hearing on the petition to adopt, vacate, or modify an adoption decree, the department shall file as part of the adoption file with respect to the child a copy of any initial agreement, together with any changes made in the agreement, or in the related standards.

(2) If the court, in its judgment, finds the provision made in an agreement to be inadequate, it may make any recommendation as it deems warranted with respect to the agreement to the department. The court shall not, however, solely by virtue of this section, be empowered to direct the department to make payment. This section shall not be

deemed to limit any other power of the superior court with respect to the adoption and any related matter. [1984 c 155 s 32.]

RCW 26.33.330 Records sealed—Inspection—Fee. (1) All records of any proceeding under this chapter shall be sealed and shall not be thereafter open to inspection by any person except upon order of the court for good cause shown, or except by using the procedure described in RCW 26.33.343. In determining whether good cause exists, the court shall consider any certified statement on file with the department of health as provided in RCW 26.33.347.

(2) The state registrar of vital statistics may charge a reasonable fee for the review of any of its sealed records. [1996 c 243 s 3; 1990 c 145 s 3; 1984 c 155 s 33.]

Finding—1996 c 243: See note following RCW 26.33.347.

RCW 26.33.340 Department, agency, and court files confidential—Limited disclosure of information. Department, agency, and court files regarding an adoption shall be confidential except that reasonably available nonidentifying information may be disclosed upon the written request for the information from the adoptive parent, the adoptee, or the birth parent. If the adoption facilitator refuses to disclose nonidentifying information, the individual may petition the superior court. Identifying information may also be disclosed through the procedure described in RCW 26.33.343. [1993 c 81 s 2; 1990 c 145 s 4; 1984 c 155 s 34.]

RCW 26.33.343 Search for birth parent or adopted child—Confidential intermediary. (1) An adopted person over the age of twenty-one years, or under twenty-one with the permission of the adoptive parent, or a birth parent or member of the birth parent's family after the adoptee has reached the age of twenty-one may petition the court to appoint a confidential intermediary. A petition under this section shall state whether a certified statement is on file with the department of health as provided for in RCW 26.33.347 and shall also state the intent of the adoptee as set forth in any such statement. The intermediary shall search for and discreetly contact the birth parent or adopted person, or if they are not alive or cannot be located within one year, the intermediary may attempt to locate members of the birth parent or adopted person's family. These family members shall be limited to the natural grandparents of the adult adoptee, a brother or sister of a natural parent, or the child of a natural parent. The court, for good cause shown, may allow a relative more distant in degree to petition for disclosure.

(2) (a) Confidential intermediaries appointed under this section shall complete training provided by a licensed adoption service or another court-approved entity and file an oath of confidentiality and a certificate of completion of training with the superior court of every county in which they serve as intermediaries. The court may dismiss an intermediary if the intermediary engages in conduct which violates professional or ethical standards.

(b) The confidential intermediary shall sign a statement of confidentiality substantially as follows:

I,, signing under penalty of contempt of court, state: "As a condition of appointment as a confidential intermediary, I affirm that, when adoption records are opened to me:

I will not disclose to the petitioner, directly or indirectly, any identifying information in the records without further order from the court.

I will conduct a diligent search for the person being sought and make a discreet and confidential inquiry as to whether that person will consent to being put in contact with the petitioner, and I will report back to the court the results of my search and inquiry.

If the person sought consents to be put in contact with the petitioner, I will attempt to obtain a dated, written consent from the person, and attach the original of the consent to my report to the court. If the person sought does not consent to the disclosure of his or her identity, I shall report the refusal of consent to the court.

I will not make any charge or accept any compensation for my services except as approved by the court, or as reimbursement from the petitioner for actual expenses incurred in conducting the search. These expenses will be listed in my report to the court.

I recognize that unauthorized release of confidential information may subject me to civil liability under state law, and subjects me to being found in contempt of court."

/s/ _____ date _____

(c) The confidential intermediary shall be entitled to reimbursement from the petitioner for actual expenses in conducting the search. The court may authorize a reasonable fee in addition to these expenses.

(3) If the confidential intermediary is unable to locate the person being sought within one year, the confidential intermediary shall make a recommendation to the court as to whether or not a further search is warranted, and the reasons for this recommendation.

(4) In the case of a petition filed on behalf of a natural parent or other blood relative of the adoptee, written consent of any living adoptive parent shall be obtained prior to contact with the adoptee if the adoptee:

(a) Is less than twenty-five years of age and is residing with the adoptive parent; or

(b) Is less than twenty-five years of age and is a dependent of the adoptive parent.

(5) If the confidential intermediary locates the person being sought, a discreet and confidential inquiry shall be made as to whether or not that person will consent to having his or her present identity disclosed to the petitioner. The identity of the petitioner shall not be disclosed to the party being sought. If the party being sought consents to the disclosure of his or her identity, the confidential intermediary shall obtain the consent in writing and shall include the original of the consent in the report filed with the court. If the party being sought refuses disclosure of his or her identity, the confidential intermediary shall report the refusal to the court and shall refrain from further and subsequent inquiry without judicial approval.

(6) (a) If the confidential intermediary obtains from the person being sought written consent for disclosure of his or her identity to the petitioner, the court may then order that the name and other identifying information of that person be released to the petitioner.

(b) If the person being sought is deceased, the court may order disclosure of the identity of the deceased to the petitioner.

(c) If the confidential intermediary is unable to contact the person being sought within one year, the court may order that the search be continued for a specified time or be terminated. [1996 c 243 s 4; 1990 c 145 s 1.]

Finding—1996 c 243: See note following RCW 26.33.347.

RCW 26.33.345 Search for birth parent or adopted child—Limited release of information—Noncertified copies of original birth certificate—Contact preference form. (1) The department, adoption agencies, and independent adoption facilitators shall release the name and location of the court where a relinquishment of parental rights or finalization of an adoption took place to an adult adoptee, a birth parent of an adult adoptee, an adoptive parent, a birth or adoptive grandparent of an adult adoptee, or an adult sibling of an adult adoptee, or the legal guardian of any of these.

(2) The department of health shall make available a noncertified copy of the original birth certificate of a child to the child's birth parents upon request.

(3) (a) For adoptions finalized after October 1, 1993, the department of health shall provide a noncertified copy of the original birth certificate to an adoptee eighteen years of age or older upon request, unless the birth parent has filed an affidavit of nondisclosure before July 28, 2013, or a contact preference form that indicates he or she does not want the original birth certificate released: PROVIDED, That the affidavit of nondisclosure, the contact preference form, or both have not expired.

(b) For adoptions finalized on or before October 1, 1993, the department of health may not provide a noncertified copy of the original birth certificate to the adoptee until after June 30, 2014. After June 30, 2014, the department of health shall provide a noncertified copy of the original birth certificate to an adoptee eighteen years of age or older upon request, unless the birth parent has filed a contact preference form that indicates he or she does not want the original birth certificate released: PROVIDED, That the contact preference form has not expired.

(c) An affidavit of nondisclosure expires upon the death of the birth parent.

(4) (a) Regardless of whether a birth parent has filed an affidavit of nondisclosure or when the adoption was finalized, a birth parent may at any time complete a contact preference form stating his or her preference about personal contact with the adoptee, which, if available, must accompany an original birth certificate provided to an adoptee under subsection (3) of this section.

(b) The contact preference form must include the following options:

(i) I would like to be contacted. I give the department of health consent to provide the adoptee with a noncertified copy of his or her original birth certificate;

(ii) I would like to be contacted only through a confidential intermediary as described in RCW 26.33.343. I give the department of health consent to provide the adoptee with a noncertified copy of his or her original birth certificate;

(iii) I prefer not to be contacted and have completed the birth parent updated medical history form. I give the department of health consent to provide the adoptee with a noncertified copy of his or her original birth certificate; and

(iv) I prefer not to be contacted and have completed the birth parent updated medical history form. I do not want a noncertified copy of the original birth certificate released to the adoptee.

(c) If the birth parent indicates he or she prefers not to be contacted, personally identifying information on the contact preference form must be kept confidential and may not be released.

(d) Nothing in this section precludes a birth parent from subsequently filing another contact preference form to rescind the previous contact preference form and state a different preference.

(e) A contact preference form expires upon the death of the birth parent.

(5) If a birth parent files a contact preference form, the birth parent must also file an updated medical history form with the department of health. Upon request of the adoptee, the department of health must provide the adoptee with the updated medical history form filed by the adoptee's birth parent.

(6) Both a completed contact preference form and birth parent updated medical history form are confidential and must be placed in the adoptee's sealed file.

(7) If a birth parent files a contact preference form within six months after the first time an adoptee requests a copy of his or her original birth certificate as provided in subsection (3) of this section, the department of health must forward the contact preference form and the birth parent updated medical history form to the address of the adoptee.

(8) The department of health may charge a fee not to exceed twenty dollars for providing a noncertified copy of a birth certificate to an adoptee.

(9) The department of health must create the contact preference form and an updated medical history form. The contact preference form must provide a method to ensure personally identifying information can be kept confidential. The updated medical history form may not require the birth parent to disclose any identifying information about the birth parent.

(10) If the department of health does not provide an adoptee with a noncertified copy of the original birth certificate because a valid affidavit of nondisclosure or contact preference form has been filed, the adoptee may request, no more than once per year, that the department of health attempt to determine if the birth parent is deceased. Upon request of the adoptee, the department of health must make a reasonable effort to search public records that are accessible and already available to the department of health to determine if the birth parent is deceased. The department of health may charge the adoptee a reasonable fee to cover the cost of conducting a search. [2017 3rd sp.s. c 6 s 320; 2013 c 321 s 1; 1993 c 81 s 3; 1990 c 145 s 2.]

Effective date—2017 3rd sp.s. c 6 ss 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

RCW 26.33.347 Consent or refusal to release adoptee's identifying information—Desire to be contacted—Certified statement.

(1) An adopted person over the age of eighteen may file with the department of health a certified statement declaring any one or more of the following:

(a) The adoptee refuses to consent to the release of any identifying information to a biological parent, biological sibling, or other biological relative and does not wish to be contacted by a confidential intermediary except in the case of a medical emergency as determined by a court of competent jurisdiction;

(b) The adoptee consents to the release of any identifying information to a confidential intermediary appointed under RCW 26.33.343, a biological parent, biological sibling, or other biological relative;

(c) The adoptee desires to be contacted by his or her biological parents, biological siblings, other biological relatives, or a confidential intermediary appointed under RCW 26.33.343;

(d) The current name, address, and telephone number of the adoptee who desires to be contacted.

(2) The certified statement shall be filed with the department of health and placed with the adoptee's original birth certificate if the adoptee was born in this state, or in a separate registry file for reference purposes if the adoptee was born in another state or outside of the United States. When the statement includes a request for confidentiality or a refusal to consent to the disclosure of identifying information, a prominent notice stating substantially the following shall also be placed at the front of the file: "AT THE REQUEST OF THE ADOPTEE, ALL RECORDS AND IDENTIFYING INFORMATION RELATING TO THIS ADOPTION SHALL REMAIN CONFIDENTIAL AND SHALL NOT BE DISCLOSED OR RELEASED WITHOUT A COURT ORDER SO DIRECTING."

(3) An adopted person who files a certified statement under subsection (1) of this section may subsequently file another certified statement requesting to rescind or amend the prior certified statement. [1996 c 243 s 2.]

Finding—1996 c 243: "The legislature finds that it is in the best interest of the people of the state of Washington to support the adoption process in a variety of ways, including protecting the privacy interests of adult adoptees when the confidential intermediary process is used." [1996 c 243 s 1.]

RCW 26.33.350 Medical reports—Requirements. (1) Every person, firm, society, association, corporation, or state agency receiving, securing a home for, or otherwise caring for a minor child shall transmit to the prospective adopting parent prior to placement and shall make available to all persons with whom a child has been placed by adoption a complete medical report containing all known and available information concerning the disabilities of the child.

(2) The report shall not reveal the identity of the birth parent of the child except as authorized under this chapter but shall include any known or available mental or physical health history of the birth

parent that needs to be known by the adoptive parent to facilitate proper health care for the child or that will assist the adoptive parent in maximizing the developmental potential of the child.

(3) Where known or available, the information provided shall include:

(a) A review of the birth family's and the child's previous medical history, including the child's x-rays, examinations, hospitalizations, and immunizations. After July 1, 1992, medical histories shall be given on a standardized reporting form developed by the department;

(b) A physical exam of the child by a licensed physician with appropriate laboratory tests and x-rays;

(c) A referral to a specialist if indicated; and

(d) A written copy of the evaluation with recommendations to the adoptive family receiving the report.

(4) Entities and persons obligated to provide information under this section shall make reasonable efforts to locate records and information concerning the child's disabilities. The entities or persons providing the information have no duty, beyond providing the information, to explain or interpret the records or information regarding the child's present or future health. [2020 c 274 s 4; 1994 c 170 s 1; 1991 c 136 s 4; 1990 c 146 s 6; 1989 c 281 s 1; 1984 c 155 s 37.]

RCW 26.33.360 Petition by natural parent to set aside adoption—Costs—Time limit. (1) If a natural parent unsuccessfully petitions to have an adoption set aside, the court shall award costs, including reasonable attorneys' fees, to the adoptive parent.

(2) If a natural parent successfully petitions to have an adoption set aside, the natural parent shall be liable to the adoptive parent for both the actual expenditures and the value of services rendered by the adoptive parents in caring for the child.

(3) A natural parent who has executed a written consent to adoption shall not bring an action to set aside an adoption more than one year after the date the court approved the written consent. [1984 c 155 s 35.]

RCW 26.33.3701 Permanent care and custody of a child—Assumption, relinquishment, or transfer except by court order or statute, when prohibited—Penalty. See RCW 26.38.110.

RCW 26.33.380 Family and social history report required—Identity of birth parents confidential. (1) Every person, firm, society, association, corporation, or state agency receiving, securing a home for, or otherwise caring for a minor child shall transmit to the prospective adopting parent prior to placement and shall make available to all persons with whom a child has been placed by adoption, a family background and child and family social history report, which includes a chronological history of the circumstances surrounding the adoptive placement and any available psychiatric reports, psychological reports, court reports pertaining to dependency or custody, or school reports. Such reports or information shall not

reveal the identity of the birth parents of the child but shall contain reasonably available nonidentifying information.

(2) Entities and persons obligated to provide information under this section shall make reasonable efforts to locate records and information concerning the child's family background and social history. The entities or persons providing the information have no duty, beyond providing the information, to explain or interpret the records or information regarding the child's mental or physical health. [1994 c 170 s 2; 1993 c 81 s 4; 1989 c 281 s 2.]

RCW 26.33.385 Standards for locating records and information—

Rules. The department shall adopt rules, in consultation with affected parties, establishing minimum standards for making reasonable efforts to locate records and information relating to adoptions as required under RCW 26.33.350 and 26.33.380. [1994 c 170 s 3.]

RCW 26.33.390 Information on adoption-related services. (1) All

persons adopting a child through the department shall receive written information on the department's adoption-related services including, but not limited to, adoption support, family reconciliation services, archived records, mental health, and developmental disabilities.

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

(3) Any person involved in providing adoption-related services shall respond to requests for written information by providing materials explaining adoption procedures, practices, policies, fees, and services. [1991 c 136 s 5; 1990 c 146 s 7; 1989 c 281 s 3.]

RCW 26.33.4001 Advertisements—Prohibitions—Exceptions—

Application of consumer protection act. See RCW 26.38.130.

RCW 26.33.420 Postadoption contact between siblings—Intent—

Findings. The legislature finds that the importance of children's relationships with their siblings is well recognized in law and science. The bonds between siblings are often irreplaceable, leading some experts to believe that sibling relationships can be longer lasting and more influential than any other over a person's lifetime. For children who have been removed from home due to abuse or neglect, these bonds are often much stronger because siblings have learned early the importance of depending on one another and cooperating in order to cope with their common problems. The legislature further finds that when children are in the foster care system they typically have some degree of contact or visitation with their siblings even when they are not living together. The legislature finds, however, that when one or more of the siblings is adopted from foster care, these relationships may be severed completely if an open adoption agreement fails to attend to the needs of the siblings for continuing postadoption contact. The legislature intends to promote a greater

focus, in permanency planning and adoption proceedings, on the interests of siblings separated by adoptive placements and to encourage the inclusion in adoption agreements of provisions to support ongoing postadoption contact between siblings. [2009 c 234 s 1.]

RCW 26.33.430 Postadoption contact between siblings—Duty of court. The court, in reviewing and approving an agreement under RCW 26.33.295 for the adoption of a child from foster care, shall encourage the adoptive parents, birth parents, foster parents, kinship caregivers, and the department or other supervising agency to seriously consider the long-term benefits to the child adoptee and siblings of the child adoptee of providing for and facilitating continuing postadoption contact between siblings. To the extent feasible, and when in the best interests of the child adoptee and siblings of the child adoptee, contact between the siblings should be frequent and of a similar nature as that which existed prior to the adoption. If the child adoptee or known siblings of the child adoptee are represented by an attorney or guardian ad litem in a proceeding under this chapter or in any other child custody proceeding, the court shall inquire of each attorney and guardian ad litem regarding the potential benefits of continuing contact between the siblings and the potential detriments of severing contact. [2009 c 234 s 2.]

RCW 26.33.900 Effective date—Application—1984 c 155. This act shall take effect January 1, 1985. Any proceeding initiated before January 1, 1985, shall be governed by the law in effect on the date the proceeding was initiated. [1984 c 155 s 41.]

RCW 26.33.902 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521. For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 s 70.]

RCW 26.33.903 Construction—Religious or nonprofit organizations. Nothing contained in chapter 3, Laws of 2012 shall be construed to alter or affect existing law regarding the manner in which a religious or nonprofit organization may be licensed to and provide adoption, foster care, or other child-placing services under this chapter or chapter 74.15 or 74.13 RCW. [2012 c 3 s 14 (Referendum Measure No. 74, approved November 6, 2012).]

Notice—2012 c 3: See note following RCW 26.04.010.