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## YOUR LEGISLATIVE ROUNDUP

### THE KEEPING FAMILIES TOGETHER ACT ESSHB 1227 (2021)

ESSHB 1227, in general, amends the early removal standards under the Juvenile Court Act. The following is a summary of many of the changes but is not exhaustive.

The new bill amended RCW 26.44.056 (Hospital Holds) to require "probable cause" not "reasonable cause" to believe that "detaining the child is necessary to prevent imminent physical harm and serious injury. However, the statute does not define probable cause. RCW 26.44.050 (AEP) already required probable cause but amended the language to require a belief that it is necessary to prevent imminent physical harm and serious injury.

Next, the bill amended RCW 13.34.050 (Pick-up Order) to require the petition to aver:

- Corroborating evidence of dependency.
- The allegations, if true, establishes reasonable grounds to believe that removal is necessary to prevent imminent physical harm.
- A declaration evidencing insufficient time to serve AND hold a hearing prior to removal.

If a child is removed by AEP or ex parte court order, the Department is to place the child in relative care, "[u]nless there is reasonable cause based on specific evidence to believe that the health, safety, or welfare of the child would be jeopardized or that the efforts to reunite the parent and child will be hindered. This relative must also:

- Be willing and available to care for the child and be able to meet any special need.

- Complete the statutory inquiry for continued placement.
- Be willing to facilitate the child's visitation with siblings if such visitation is part of the plan or order.

If the Department does not place with a relative, they must make continuing efforts to place with a relative and document its efforts.

The new bill also made changes to the procedures at shelter care. For example, it removed "reasonable" and substitute "diligent" efforts regarding notice. It also requires the Court to "hold an additional shelter care hearing within 72 hours" if the child is removed from the care of a parent, guardian, or legal custodian at any time after an initial shelter care hearing under this section. This provision cements the procedure for removal post placement. Finally, the statute also permits the child's attorney to continue or request a subsequent shelter care hearing.

The new bill amends the removal standard to require reasonable cause to believe:

- Removal is necessary to prevent imminent physical harm due to child abuse or neglect.
- The evidence shows a causal relationship between the conditions in the home and the imminent physical harm.
- It is contrary to the welfare of the child to be returned home.
- The imminent physical harm to the child outweighs the harm the child will experience because of removal.

Then, if the court finds the above elements, the court shall further consider:

- If any prevention services would eliminate the need for removal, and
- If the parent is willing, following consultation, to participate in such services.
- Or whether A TRO would prevent the need for removal.

If the Court removes the child, the bill requires the Court place outside foster care, unless the petitioner establishes reasonable cause to believe that placement in foster care

is necessary to prevent imminent physical harm to the child due to child abuse or neglect because no relative or other suitable person can ensure the basic safety of the child; or that the efforts to reunite the parent and child will be hindered.

The new law adds a new line of court inquiry into whether there are any relatives or other suitable persons who:

- Are willing to care for the child.
- Have expressed an interest in becoming a caregiver for the child.
- Can meet any special needs of the child.
- Are willing to facilitate the child's sibling and parent visitation if such visitation is ordered by the court.
- Supports reunification of the parent and child once safe to do so.

The new bill expressly instructs the court to give great weight to the stated preference of the parent and the child.

If a relative or other suitable person expressed an interest in caring for the child, the following must not prevent placement:

- An incomplete department or fingerprint-based background check if they appear otherwise suitable and competent.
- Uncertainty regarding adoption.
- Disbelief that the parent presents a danger to the child, provided they will protect the safety of the child and comply with court orders regarding contact.
- Or the conditions of the relative or other suitable person's home are not sufficient to satisfy the requirements of a licensed foster home.

Importantly, the court may order the department to provide financial or other support to the relative or other suitable person necessary to ensure safe conditions in the home.

If the court places with a relative or other suitable person, and that person has indicated a desire to become a licensed foster parent, the court must order the department to commence an assessment of the home within 10 days and issue an initial license for such relative or other suitable person, if qualified. Payments of foster care maintenance funds are to commence on the date the

department approves the initial license. However, if unqualified, the department must report such fact to the court within one week of that determination. The department must also report on the status of the licensure process at the dispositional phase.

The new law permits foster care placement only if the court does not order placement with a relative or other suitable person. If the court places in foster care, it must set forth its reasons for doing so in the order.

The new law also requires the petitioner shall report to the court, at the shelter care hearing, the location of the licensed foster placement and the court can inquire as to whether:

- The placement is the least restrictive.
- The child will remain in the same school. And the court can enter any orders necessary to ensure educational stability.
- The child will be placed with a sibling or siblings.
- The placement can meet the needs of the child.
- Whether the location of the placement will impede visitation.

After inquiry, the court may order the department to:

- Place the child in a less restrictive placement.
- Place the child in a location in closer proximity to the child's parent, home, or school.
- Place the child with the child's sibling or siblings.
- Take any other necessary steps to ensure the child's health, safety, and well-being.

AND the court shall advise the petitioner that:

- Failure to comply with court orders will be considered when determining reasonable efforts; and
- Placement moves will be considered when determining reasonable efforts.

The bill also amended RCW 13.34.090 to explicitly require that the department make "every effort to provide" discovery prior to any shelter care hearing.

## AN ACT RELATED TO RELATIVE PLACEMENT

[SHB 1747 \(2022\)](#)

SHB 1747 expands the good cause exception to the requirement that the court require DCYF to file a termination petition if a child is in out-of-home care for 15 or the last 22 months to include circumstances where the Department has not yet met with the caregiver for the child to discuss guardianship as an alternative to adoption or the court has determined that guardianship is an appropriate permanent plan.

It also limits the Department's ability to move a child placed with a relative or other suitable person unless the court finds a change in circumstances specific to the factors for relative or other suitable placement as contained in RCW 13.34.130.

It amends an element of the termination statute to include consideration of the efforts taken by the department to support a guardianship and whether a guardianship is available as a permanent option for the child. Any amendment to the elements regarding termination of parental rights is significant and should be reviewed carefully.

It clearly states that placement standards continue to apply throughout the life of the case, including post-termination.

And it requires DCYF extend financial support eligibility to 11.130 guardianships.

**AN ACT RELATING TO SUPPORTING  
GUARDIANSHIPS AND VOLUNTARY  
PLACEMENT WITH NONRELATIVE KIN  
[SB 5124 \(2023\)](#)**

In substance, the bill amends RCW 13.36.090, 74.13.062, and 74.13.031 and expands the scope of guardianship subsidies. The amendments to RCW 13.36.090 removed "relative guardian" and broadened the scope of the subsidy to "any guardian" who is a foster parent licensed pursuant to RCW 74.15.030. Unfortunately, the requirement that the foster parent be licensed for six consecutive months prior to entry of the guardianship order remains.

To be eligible:

- The child has been placed for at least six consecutive months with a guardian who has been licensed for at least six consecutive months; or
- The child is placed with a guardian who is already receiving a guardianship assistance subsidy for the benefit of the child's sibling.

Importantly, a child does not need to be eligible for federal foster care reimbursement to qualify for state-funded guardianship assistance payments.

RCW 74.13.062 is amended to expand the subsidy to both RCW 13.36.050 guardianships and 11.130.215 guardianships and to tribal guardianships for federally recognized tribes located in Washington State.

RCW 74.13.031 is amended to require annual data and information about relative placements, guardianship assistance, support for relative home studies, and nonrelative family homes. This amendment removes language regarding foster parent placements, turnover rates, home studies for legally free children, and more. This amendment suggests that the legislature intends to monitor implementation of HB 1227 and the more generalized push towards kinship placements.

It also permits the Department to provide guardianship subsidies to youth between 18 and 21 who are in guardianships AND meet the requirements for extended foster care payments.

**AN ACT RELATING TO REVISING THE PROCESS  
FOR INDIVIDUALS TO REQUEST NAME  
CHANGES  
[SSB 5028 \(2023\)](#)**

SSB 5028 amends RCW 4.24.130 and 36.18.010 and explicitly permits the juvenile court to adjudicate a name change petition.

**AN ACT RELATING TO CREATING A SYSTEM TO  
SUPPORT CHILDREN IN CRISIS  
[SSHB 1580 \(2023\)](#)**

In substance, SSB 1580 creates a "rapid care team" with members from DCYF, HCA, OFM, DDA, and DSHS to help children in crisis who are spending time in hospitals without a medical need by quickly identifying appropriate

services and living arraignments.

The bill defines a child in crisis as a person under eighteen who is (1) at risk of or is remaining in a hospital without medical necessity and without the ability to return to a parent or (2) dependent and experiencing homelessness with a DCYF referral.

The new bill also establishes a "Children and Youth Multisystem Care Coordinator" who will manage the rapid care team.

**AN ACT RELATING TO SUPPORTING YOUTH  
AND YOUNG ADULTS SEEKING PROTECTED  
HEALTH CARE SERVICES**  
[ESSB 5599 \(2023\)](#)

In ESSB 5599, the legislature sought to remove barriers to youth with certain protected health concerns who are seeking temporary, licensed shelter accommodations. For instance, the new statute lists gender affirming treatment and reproductive health care services as compelling reasons that a licensed overnight youth shelter would not need to notify a parent of the child's presence, but they must notify the Department.

**AN ACT RELATING TO MAKING PERMANENT  
AND EXPANDING THE CHILD WELFARE  
HOUSING ASSISTANCE PROGRAM**  
[SSB 5256](#)

SB 5256 Expanded the child welfare housing assistance program and directs Department to administer the child welfare housing program, which is no longer a pilot program. Families are eligible where appropriate housing is the remaining a barrier to reunification or remaining in the home. The Department is to operate the program in one or more counties east and west of the Cascade Mountain range. More on this to come.

**AN ACT RELATING TO PRESERVING PUBLIC  
BENEFIT PAYMENTS TO PEOPLE IN THE CARE  
OF DCYF**  
[HB 1405 \(2023\)](#)

[DID NOT PASS] In substance, HB 1405 would have prohibited DCYF from applying benefits, payments, or funds paid to, or on behalf of, a person in the care of the

DCYF as reimbursement for the cost of care, and instead required conservation of funds for the future use of the beneficiary. And would have required DCYF to develop and implement a financial literacy training and provide the training to specified persons leaving the care of the DCYF. This bill failed to make it out of committee.

### TRAINING OPPORTUNITIES

#### HB 1227 PART 2.

A second experiential training will be held on May 23, 2023, 12:00 – 1:30 PM. We are still finalizing the training plan and more details will follow. Again, this training is virtual, free, and no registration is necessary. Once finalized, a Zoom link will also be sent by email.

#### ANNUAL CONTRACTOR CONFERENCE.

The CRP is committed, within fiscal resources, to provide an annual conference for our contractors. We believe this conference is integral to building out statewide community of practice and this year we are excited to announce a joint annual conference with OPD and the Children's Home Society of Washington. This conference will be in-person at UW Tacoma. More details will follow. For now, we request that you save the date, September 11 – 12, 2023.



### AN OPPORTUNITY TO PROVIDE FEEDBACK TO THE U.S. CHILDREN'S BUREAU ON CHILD WELFARE PRACTICE.

The U.S. Children's Bureau has released a survey for judges, attorneys, court clerks working in child welfare. It should take about 15 minutes to complete and is designed to help the federal government better understand child welfare court practice across the country. To complete the survey, click [here](#).

### REQUEST FROM THE GAULT CENTER FOR YOUTH INPUT.

Lambda Legal, Children's Rights, Center for the Study of Social Policy, and Elliott Hinkle, a trans masculine nonbinary person with lived experience in Wyoming's child welfare system and founder and principal of Unicorn Solutions, are completing an update of the 2017 Report - Safe Havens: Closing the Gap Between Recommended Practice and Reality for Gender Expansive Youth in Out-of-Home Care. Elliott Hinkle will lead gathering system improvement and/or system-involvement prevention recommendations from trans, nonbinary, and gender diverse youth and young adults with experience in child welfare or juvenile justice systems or experience with homelessness or housing instability to include in the report.

Contributors with lived experience will receive \$500 for their time consulting and sharing recommendations for systemic reform, and to the extent they wish, any experiences while system involved. Contributors may share recommendations anonymously in writing or may share their recommendations and experiences in the form of audio or video recordings or art or poetry. We anticipate a total of approximately three hours per contributor. Future opportunities for speaking engagements, policy consulting, and training are possible depending on a youth's interest and will be compensated separately.

We seek contributors who are diverse in terms of identity, with a special emphasis on recommendations from nonbinary, genderqueer or gender diverse young adults, and diverse in terms of race and ethnicity and geographic location while in care or custody or receiving services. Young adults who are over eighteen years of age and with recent experience in care or custody are preferred, but those criteria are not required.

If you have any questions, please contact Currey Cook, from Lambda Legal at [ccook@lambdalegal.org](mailto:ccook@lambdalegal.org).

### NEW 1219 COUNTIES 2024.

The CRP is now accepting applications for Thurston, Mason, Grays Harbor, Pacific, Skamania, Klickitat, Adams & Yakima Counties. If you know someone who is interested in child representation, please let them know about this opportunity. More information is located on our website [here](#).

### NEW TRAVEL POLICY.

OCLA has a new travel police that is available [here](#).

### DS vs DCYF SETTLEMENT AGREEMENT STAKEHOLDER ENGAGEMENT REPORT

DCYF has published an engagement report after gathering input from child welfare partners and people who have lived experience with DCYF's policies and programs in the areas related to the class action lawsuit.

The link below provides access to the findings in the public report. This report is being used to inform DCYF's settlement agreement implementation plan, which is scheduled to be published on this website around June 2, 2023.

The report can be found [here](#).

# SAVE THE DATE



## Washington State Office of Civil Legal Aid Children's Representation Program

In 2021, the Legislature enacted 2SHB 1219, expanding a child's right to counsel in dependency proceedings. Codified at RCW 13.34.212(3), this new legislation ensures, subject to the availability of funds appropriated for this purpose:

- Appointment of counsel for all children 0-7 upon the filing of a termination petition
- Appointment of counsel for all children 8-17 years old at or before the commencement of the shelter care hearing and for any pending or open dependency case where counsel has not already been appointed or privately secured

The Office of Civil Legal Aid's Children's Representation Program (CRP) is tasked with implementing this legislation on a county-by-county basis over a six-year period as of July 1, 2021. If you are interested in learning more about 2SHB 1219 and the CRP's implementation efforts, please join us at one of the following virtual information for sessions:

### INFORMATIONAL SESSIONS

**May 25<sup>th</sup> at 12:00-1:00 pm.**

Zoom: 834 6362 0121, 342209

**June 22<sup>nd</sup> at 12:00-1:00pm**

Zoom: 834 6362 0121, 429040

**July 20<sup>th</sup> at 12:00-1:00 pm.**

Zoom: 834 6362 0121, 131611



Link to RFQ