

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

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

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

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

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

(3) Such agreements shall meet the following criteria:

(a) The child whose adoption is to be supported pursuant to such agreement shall be or have been a child hard to place in adoption.

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

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

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

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

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

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

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

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

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

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

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

11 (2)(a) An adoptive parent who adopts a child from the foster care
12 system after providing foster care services to that child does not
13 qualify for the adoption support subsidy if he or she received the
14 basic foster care rate for the child while the child was in care, and
15 did not spend in excess of the hours one would normally spend meeting
16 the needs of a typically developing child. The adoptive parent and
17 child would qualify for all other adoption support services, including
18 medical care.

19 (b) An adoptive parent, who was a relative or other unpaid
20 caregiver during the time an adoptive child was in the dependency
21 system, and who did not spend in excess of the hours one would normally
22 spend meeting the needs of a typically developing child and, if
23 licensed as a foster parent, would have received the basic foster care
24 rate for the child, does not qualify for the adoption support subsidy
25 but the child shall qualify for all other adoption support program
26 services, including medical care.

27 (3) In setting the amount of any initial payment made pursuant to
28 RCW 26.33.320 and ((74.13.100)) 74.13A.005 through ((74.13.145))
29 74.13A.080, the secretary is authorized to establish maximum payment
30 amounts that are reasonable and allow permanency planning goals related
31 to adoption of children under RCW 13.34.145 to be achieved at the
32 earliest possible date.

33 (4) The amounts paid for the support of a child pursuant to RCW
34 26.33.320 and ((74.13.100)) 74.13A.005 through ((74.13.145)) 74.13A.080
35 may vary from family to family and from year to year. Due to changes
36 in economic circumstances or the needs of the child such payments may
37 be discontinued and later resumed.

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

6 (6) In fixing the standards to govern the amount and character of
7 payments to be made for the support of adopted children pursuant to RCW
8 26.33.320 and ((74.13.100)) 74.13A.005 through ((74.13.145)) 74.13A.080
9 and before issuing rules and regulations to carry out the provisions of
10 RCW 26.33.320 and ((74.13.100)) 74.13A.005 through ((74.13.145))
11 74.13A.080, the secretary shall consider the comments and
12 recommendations of the committee designated by the secretary to advise
13 him or her with respect to child welfare.

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

16 Nothing in this chapter prohibits an adoptive parent from seeking
17 payments or assistance under this chapter after the finalization of the
18 adoption of a child who was in, or likely to be placed in, foster care
19 or relative or other unpaid care, prior to the adoption, but who, at
20 the time of adoption, was not considered hard to place.

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

23 An agreement for adoption support made before January 1, 1985, or
24 pursuant to RCW 26.33.320 and 74.13A.005 through 74.13A.080, although
25 subject to review and adjustment as provided for herein, shall, as to
26 the standard used by the secretary in making such review or reviews and
27 any such adjustment, constitutes a contract within the meaning of
28 section 10, Article I of the United States Constitution and section 23,
29 Article I of the state Constitution. For that reason once such an
30 agreement has been made any review of and adjustment under such
31 agreement shall as to the standards used by the secretary, be made only
32 subject to the provisions of RCW 26.33.320 and 74.13A.005 through
33 74.13A.080 and such rules and regulations relating thereto as they
34 exist on the date of the initial determination in connection with such
35 agreement or such more generous standard or parts of such standard as
36 may hereafter be provided for by law or regulation. Once made such an

1 agreement shall constitute a solemn undertaking by the state of
2 Washington with such adoptive parent or parents. The termination of
3 the effective period of RCW 26.33.320 and 74.13A.005 through 74.13A.080
4 or a decision by the state or federal government to discontinue or
5 reduce general appropriations made available for the purposes to be
6 served by RCW 26.33.320 and 74.13A.005 through 74.13A.080, shall not
7 affect the state's specific continuing obligations to support such
8 adoptions, subject to such annual review and adjustment for all such
9 agreements as have theretofore been entered into by the state.

10 The purpose of this section is to assure any such parent that, upon
11 his or her consenting to assume the burdens of adopting a hard to place
12 child, the state will not in future so act by way of general reduction
13 of appropriations for the program authorized by RCW 26.33.320 and
14 74.13A.005 through 74.13A.080 or ratable reductions, to impair the
15 trust and confidence necessarily reposed by such parent in the state as
16 a condition of such parent taking upon himself or herself the
17 obligations of parenthood of a ((difficult)) hard to place child.

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

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

28 The secretary may authorize the payment, from the appropriations
29 available from the general fund, of all or part of the nonrecurring
30 adoption expenses incurred by a prospective parent. "Nonrecurring
31 adoption expenses" means those expenses incurred by a prospective
32 parent in connection with the adoption of a ((difficult)) hard to place
33 child including, but not limited to, attorneys' fees, court costs, and
34 agency fees. Payment shall be made in accordance with rules adopted by
35 the department.

36 This section shall have retroactive application to January 1, 1987.
37 For purposes of retroactive application, the secretary may provide

1 reimbursement to any parent who adopted a ((difficult)) hard to place
2 child between January 1, 1987, and one year following June 7, 1990,
3 regardless of whether the parent had previously entered into an
4 adoption support agreement with the department.

5 NEW SECTION. **Sec. 6.** This act applies to adoption support
6 agreements entered into on or after July 1, 2011.

7 NEW SECTION. **Sec. 7.** This act is necessary for the immediate
8 preservation of the public peace, health, or safety, or support of the
9 state government and its existing public institutions, and takes effect
10 July 1, 2011.

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