

**SUPREME COURT OF THE STATE OF WASHINGTON**

HBH; SAH; and TREY  
HAMRICK, litigation guardian ad  
litem on behalf of KEH, JBH, and  
KMH,

Respondents,

v.

STATE OF WASHINGTON,

Petitioner.

PETITIONER  
STATE OF  
WASHINGTON'S  
STATEMENT OF  
ADDITIONAL  
AUTHORITIES

Pursuant to RAP 10.8, Petitioner State of Washington submits as additional authority former RCW 74.13.031 (2000), which was in effect during the 1999-2000 foster care period material to the issues before the Court in the above-captioned matter

Former RCW 74.13.031 (2000) differs from the version of RCW 74.13.031 provided by Respondents in the Appendix to their supplemental brief. *See* Appendix: "RCW 74.13.031 (prior to its 2012 amendment) (in pertinent part)," Respondents' Supplemental Brief, No. 94529-2 (filed Nov. 6, 2017).

In particular, the two versions of RCW 74.13.031 differ in respect to subsection (5).

Former RCW 74.13.031 (2000) subsection (5) provides:

The department shall have the duty to provide child welfare services and shall:

...

(5) Monitor out-of-home placements, on a timely and routine basis, to assure the safety, well-being, and quality of care being provided is within the scope of the intent of the legislature as defined in RCW 74.13.010 and 74.15.010, and annually submit a report measuring the extent to which the department achieved the specified goals to the governor and the legislature.

Former RCW 74.13.031(5) (2000) (as amended by Laws of 1997, ch. 272 § 1, subsequently revised by Laws of 2008, ch. 267 § 6) (attached).

The version of RCW 74.13.031 subsection (5) in Respondents' Appendix, "RCW 74.13.031 (prior to its 2012 amendment) (in pertinent part)," provides:

(5) The department or supervising agencies shall monitor placements of children in out-of-home care and in-home dependencies to assure the safety, well-being, and quality of care being provided is within the scope of the intent of the legislature as defined in RCW 74.13.010 and 74.15.010. Under this section children in out-of-home care and in-home dependencies and their caregivers shall receive a private and individual face-to-face visit each month. The department and the supervising agencies shall randomly select no less than ten percent of the caregivers currently providing care to receive one unannounced face-to-face visit in the caregiver's home per year. No caregiver will receive an unannounced visit through the random selection process for two consecutive years. If the caseworker makes a good faith effort to conduct an unannounced visit to a caregiver and is unable to do so, that month's visit to that caregiver need not be unannounced. The department and supervising agencies are encouraged to group monthly visits to caregivers by

geographic area so that in the event an unannounced visit cannot be completed, the caseworker may complete other required monthly visits. The department shall use a method of random selection that does not cause a fiscal impact to the department.

The department and supervising agencies shall conduct the monthly visits with children and caregivers to whom it is providing child welfare services.

See Appendix: “RCW 74.13.031 (prior to its 2012 amendment) (in pertinent part),” Respondents’ Supplemental Brief, No. 94529-2 (filed Nov. 6, 2017).

RESPECTFULLY SUBMITTED this 31st day of January, 2018.

ROBERT W. FERGUSON  
Attorney General

*s/ Allyson Zipp*  
\_\_\_\_\_  
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# APPENDIX

# REVISED CODE of WASHINGTON

## Containing all laws of a general and permanent nature enacted through the 2000 Legislative Session.

This 2000 RCW is current through October 7, 2000, containing changes made by the Washington State legislature in the 2000 regular, 1st and 2nd special sessions.

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**Notes:**

**Findings--Intent--1998 c 296:** "The legislature finds it is often necessary for parents to obtain mental health or chemical dependency treatment for their minor children prior to the time the child's condition presents a likelihood of serious harm or the child becomes gravely disabled. The legislature finds that treatment of such conditions is not the equivalent of incarceration or detention, but is a legitimate act of parental discretion, when supported by decisions of credentialed professionals. The legislature finds that, consistent with *Parham v. J.R.*, 442 U.S. 584 (1979), state action is not involved in the determination of a parent and professional person to admit a minor child to treatment and finds this act provides sufficient independent review by the department of social and health services, as a neutral fact-finder, to protect the interests of all parties. The legislature intends and recognizes that children affected by the provisions of this act are not children whose mental or substance abuse problems are adequately addressed by chapters 70.96A and 71.34 RCW. Therefore, the legislature finds it is necessary to provide parents a statutory process, other than the petition process provided in chapters 70.96A and 71.34 RCW, to obtain treatment for their minor children without the consent of the children.

The legislature finds that differing standards of admission and review in parent-initiated mental health and chemical dependency treatment for their minor children are necessary and the admission standards and procedures under state involuntary treatment procedures are not adequate to provide safeguards for the safety and well-being of all children. The legislature finds the timeline for admission and reviews under existing law do not provide sufficient opportunities for assessment of the mental health and chemically dependent status of every minor child and that additional time and different standards will facilitate the likelihood of successful treatment of children who are in need of assistance but unwilling to obtain it voluntarily. The legislature finds there are children whose behavior presents a clear need of medical treatment but is not so extreme as to require immediate state intervention under the state involuntary treatment procedures." [1998 c 296 § 6.]

**Part headings not law--1998 c 296:** "Part headings used in this act do not constitute any part of the law." [1998 c 296 § 43.]

**Short title--1998 c 296:** "This act may be known and cited as "the Becca act of 1998."" [1998 c 296 § 44.]

**RCW 74.13.031 Duties of department--Child welfare services--Children's services advisory committee.**

The department shall have the duty to provide child welfare services and shall:

(1) Develop, administer, supervise, and monitor a coordinated and comprehensive plan that establishes, aids, and strengthens services for the protection and care of runaway, dependent, or neglected children.

(2) Within available resources, recruit an adequate number of prospective adoptive and foster homes, both regular and specialized, i.e. homes for children of ethnic minority, including Indian homes for Indian children, sibling groups, handicapped and emotionally disturbed, teens, pregnant and parenting teens, and annually report to the governor and the legislature concerning the department's success in: (a) Meeting the need for adoptive and foster home placements; (b) reducing the foster parent turnover rate; (c) completing home studies for legally free children; and (d) implementing and operating the passport program required by RCW 74.13.285. The report shall include a section entitled "Foster Home Turn-Over, Causes and Recommendations."

(3) Investigate complaints of any recent act or failure to act on the part of a parent or caretaker that results in death, serious physical or emotional harm, or sexual abuse or exploitation, or that presents an imminent risk of serious harm, and on the basis of the findings of such investigation, offer child welfare services in relation to the problem to such parents, legal

custodians, or persons serving in loco parentis, and/or bring the situation to the attention of an appropriate court, or another community agency: PROVIDED, That an investigation is not required of nonaccidental injuries which are clearly not the result of a lack of care or supervision by the child's parents, legal custodians, or persons serving in loco parentis. If the investigation reveals that a crime against a child may have been committed, the department shall notify the appropriate law enforcement agency.

(4) Offer, on a voluntary basis, family reconciliation services to families who are in conflict.

(5) Monitor out-of-home placements, on a timely and routine basis, to assure the safety, well-being, and quality of care being provided is within the scope of the intent of the legislature as defined in RCW 74.13.010 and 74.15.010, and annually submit a report measuring the extent to which the department achieved the specified goals to the governor and the legislature.

(6) Have authority to accept custody of children from parents and to accept custody of children from juvenile courts, where authorized to do so under law, to provide child welfare services including placement for adoption, and to provide for the physical care of such children and make payment of maintenance costs if needed. Except where required by Public Law 95-608 (25 U.S.C. Sec. 1915), no private adoption agency which receives children for adoption from the department shall discriminate on the basis of race, creed, or color when considering applications in their placement for adoption.

(7) Have authority to provide temporary shelter to children who have run away from home and who are admitted to crisis residential centers.

(8) Have authority to purchase care for children; and shall follow in general the policy of using properly approved private agency services for the actual care and supervision of such children insofar as they are available, paying for care of such children as are accepted by the department as eligible for support at reasonable rates established by the department.

(9) Establish a children's services advisory committee which shall assist the secretary in the development of a partnership plan for utilizing resources of the public and private sectors, and advise on all matters pertaining to child welfare, licensing of child care agencies, adoption, and services related thereto. At least one member shall represent the adoption community.

(10) Have authority to provide continued foster care or group care for individuals from eighteen through twenty years of age to enable them to complete their high school or vocational school program.

(11) Have authority within funds appropriated for foster care services to purchase care for Indian children who are in the custody of a federally recognized Indian tribe or tribally licensed child-placing agency pursuant to parental consent, tribal court order, or state juvenile court order; and the purchase of such care shall be subject to the same eligibility standards and rates of support applicable to other children for whom the department purchases care.

Notwithstanding any other provision of RCW 13.32A.170 through 13.32A.200 and 74.13.032 through 74.13.036, or of this section all services to be provided by the department of social and health services under subsections (4), (6), and (7) of this section, subject to the limitations of these subsections, may be provided by any program offering such services funded

pursuant to Titles II and III of the federal juvenile justice and delinquency prevention act of 1974.

(12) Within amounts appropriated for this specific purpose, provide preventive services to families with children that prevent or shorten the duration of an out-of-home placement.

[1999 c 267 § 8; 1998 c 314 § 10. Prior: 1997 c 386 § 32; 1997 c 272 § 1; 1995 c 191 § 1; 1990 c 146 § 9; prior: 1987 c 505 § 69; 1987 c 170 § 10; 1983 c 246 § 4; 1982 c 118 § 3; 1981 c 298 § 16; 1979 ex.s. c 165 § 22; 1979 c 155 § 77; 1977 ex.s. c 291 § 22; 1975-'76 2nd ex.s. c 71 § 4; 1973 1st ex.s. c 101 § 2; 1967 c 172 § 17.]

**Notes:**

**Findings--Intent--Severability--1999 c 267:** See notes following RCW 43.20A.790.

**Application--Effective date--1997 c 386:** See notes following RCW 74.14D.010.

**Effective date--1997 c 272:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 1997." [1997 c 272 § 8.]

**Effective date--1987 c 170 §§ 10 and 11:** "Sections 10 and 11 of this act shall take effect July 1, 1988." [1987 c 170 § 16.]

**Severability--1987 c 170:** See note following RCW 13.04.030.

**Severability--1981 c 298:** See note following RCW 13.32A.040.

**Effective dates--Severability--1977 ex.s. c 291:** See notes following RCW 13.04.005.

**Severability--1967 c 172:** See note following RCW 74.15.010.

**Declaration of purpose--1967 c 172:** See RCW 74.15.010.

*Abuse of child: Chapter 26.44 RCW.*

*Licensing of agencies caring for or placing children, expectant mothers, and developmentally disabled persons: Chapter 74.15 RCW.*

**RCW 74.13.032 Crisis residential centers--Establishment--Staff--Duties--Semi-secure facilities--Secure facilities.**

(1) The department shall establish, by contracts with private or public vendors, regional crisis residential centers with semi-secure facilities. These facilities shall be structured group care facilities licensed under rules adopted by the department and shall have an average of at least four adult staff members and in no event less than three adult staff members to every eight children.

(2) Within available funds appropriated for this purpose, the department shall establish, by contracts with private or public vendors, regional crisis residential centers with secure facilities. These facilities shall be facilities licensed under rules adopted by the department. These centers may also include semi-secure facilities and to such extent shall be subject to subsection (1) of this section.

(3) The department shall, in addition to the facilities established under subsections (1) and (2) of this section, establish additional crisis residential centers pursuant to contract with licensed private group care facilities.

(4) The staff at the facilities established under this section shall be trained so that they may effectively counsel juveniles admitted to the centers, provide treatment, supervision, and structure to the juveniles that recognize the need for support and the varying circumstances that cause children to leave their families, and carry out the responsibilities stated in RCW

**DECLARATION OF SERVICE**

I declare that on this 31st day of January, 2018, I caused to be electronically filed the foregoing document with the Clerk of the Washington State Supreme Court using the CM/ECF system, which will also send notification of this filing to the following.

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I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 31st day of January 2018, at Seattle, Washington.

s/ Judith A. St. John  
Judith A. St. John, Paralegal

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